

# **Resisting Displacement in the Southwest Bronx:**

## **Lessons from CASA's Tenant Organizing**

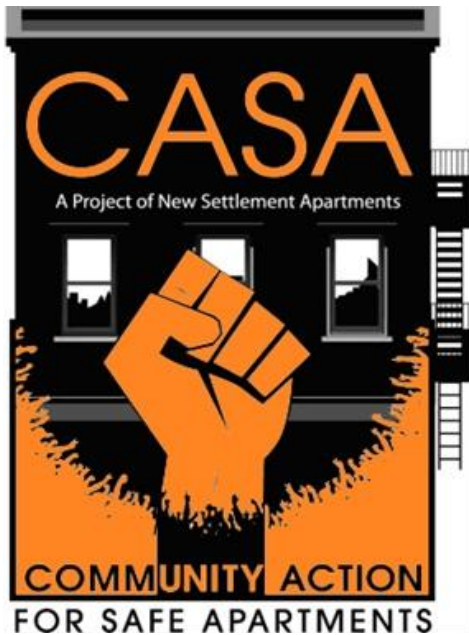
A White Paper by New Settlement Apartment's Community Action  
for Safe Apartments (CASA)

May 2017



# Acknowledgements

A Report By



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A very special thanks to Harry DeRienzo, who helped write the section on the history of the Bronx; to Chris Walters and Emily Goldstein at the Association for Neighborhood & Housing Development (ANHD), Sydney Cespedes at the Pratt Center, and Adrien Weibgen at the Community Development Project at the Urban Justice Center (CDP) for fact checking and citing; to Erin Markman and Alexa Kasdan at CDP for research, writing and editing support; and to Ingrid Haftel and Deja Holden at the Center for Urban Pedagogy (CUP) for their powerful design.

# Introduction

## This is a critical moment for the Southwest Bronx.

A potential rezoning is imminent, and could have devastating impacts on low-income tenants of color, their communities, and the state of affordable housing.

Community Action for Safe Apartments (CASA) has drawn on our organizing experience, coalition work, previous research and the experiences of the tenants we work with to draft this white paper.

## In the following pages, we:

- **Present a clear and accurate definition of displacement and counter the false assertion that most tenants leave neighborhoods by choice;**
- **Explain the tactics that landlords already use to exert displacement pressures on low-income tenants of color;**
- **Emphasize the risk of increased displacement posed by rezoning, and in particular the Jerome Avenue rezoning, when new housing is not genuinely affordable and there are insufficient protections against displacement;**
- **Offer solutions that would protect tenants from displacement, allow them to remain in their homes, and preserve their communities.**

## Who We Are and Where We Work

Community Action for Safe Apartments (CASA), has been organizing for safe and affordable housing in the Southwest Bronx for more than 11 years. As a project of a larger nonprofit, New Settlement Apartments, that is both a landlord and a social service agency, we also know the ins and outs of what it means to provide truly safe and truly affordable housing.

CASA's tenant organizing work is rooted in preventing displacement and harassment through tenant education, the formation of tenant associations, and empowering tenants to collectively exercise their rights. Our work is centered in the Highbridge and Concourse neighborhoods of

the Southwest Bronx, primarily situated in Community Board 4 (CB4). CB 4 is located within the poorest Urban Congressional District in the U.S.: almost 40% of residents in CB4 make less than \$18,500 per year,<sup>1,2</sup> and residents suffer from an unemployment rate of 9.2% compared to the city-wide rate of 5.2%.<sup>3</sup>

In the last year, CASA has organized or provided technical assistance to over 90 buildings, which are home to more than 7,000 families. In the last year, over 4,000 tenants have attended our monthly membership meetings, workshops, tenant association meetings, and campaign meetings to develop and advance policy proposals that increase tenant protections and tenant power in the city. Unfortunately, all of the tenants we organize are part of CASA because they experience significant issues such as lack of repairs, landlord harassment, and unaffordable housing.



CASA members march to demand deeper levels of affordability in response to de Blasio's Mandatory Inclusionary Housing plan.

## Why This Paper

When, in September 2014, the city announced its plans<sup>4</sup> for a rezoning<sup>5</sup> that would change the use of 73 blocks on and around Jerome Avenue, facilitating the construction of privately owned residential buildings and impacting approximately 98,000 households,<sup>6</sup> we were immediately concerned about increased speculation and pressures of displacement. We helped form a coalition<sup>7</sup> to respond to the Jerome Avenue rezoning and to create a set of solutions<sup>8</sup> that could offer a

path to create investment and development without displacement.

But a key challenge to advancing that work has been lack of consensus about the nature of displacement itself. City and elected officials who craft policies about how land is used and what kind of affordable housing should be subsidized have consistently told us that rezoning doesn't cause displacement.<sup>9</sup> We are writing this paper to rebut that argument, to document the lived collective experience of displacement, and to demonstrate how, if we don't intervene now or if we intervene in the wrong way, it will get worse.



*Residents of 315 East 167 Street celebrate uniting together to form a Tenant Association.*

We are writing this paper because we think we can and must do better. When neighborhood change is discussed, we are constantly presented with false choices. Do we choose to endure unsafe conditions or do we leave our homes? Do we choose safe, stable, career jobs or deeply affordable housing that reflects neighborhood needs? Do we choose affordable housing or do we make our neighborhoods “investment worthy?” These aren't choices, they are ultimatums. They don't reflect possibilities, they reflect power. Rather than presenting communities with these false choices, we believe the City should use its power to create thoughtful, bold policies that combat displacement and support responsible and smart development.

To develop grounded solutions, we have to understand what displacement is, its history in the Southwest Bronx, and the current threat it poses.

## What is Displacement and Why Does it Matter?

### Displacement as Forced Movement

Displacement is forced movement, or movement minus power and choice. It is when people don't want to move but have to because of forces outside of their control. It's about why they move, who benefits from them moving, and what forces cause them to move.

Displacement is incredibly harmful and destabilizing. We know that eviction is an extremely traumatic event that can lead to suicide.<sup>10</sup> We know that mass displacement from formerly tight-knit, culturally-rich communities is an experience that breaks apart social networks, takes away people's pride, sense of self, and community, and takes years from which to recover.<sup>11</sup>

Displacement is about race and class. One way to tell New York's history is to tell it through the history of land use and the forced movement of black and brown, immigrant, and mostly poor and working class people. Displacement is one of the many mechanisms of institutional racism that has to be dismantled in the long road towards racial and economic justice.

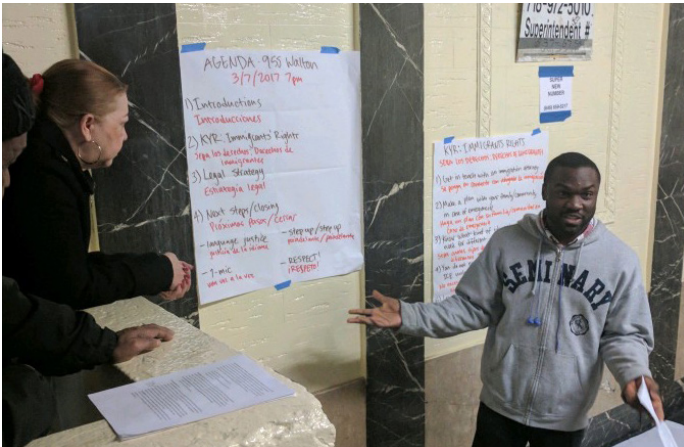
### Why Displacement in the Southwest Bronx Should Concern Everyone

Displacement can have a devastating impact on the families and people who are displaced, and it also reaches well beyond the individual or the family level. Displacement is about neighborhoods as a whole, and about the overall supply of affordable housing in our city. What we choose, or fail, to do about displacement reflects our values. Our choices about displacement reflect choices about which people matter, for whom we should build, and who we should protect. Displacement in the Southwest Bronx in particular is a warning sign about the stability of our city's neighborhoods and the ability of low-income people to live here.

98,000 households live within a half mile of the Jerome Avenue study area: the area of land the city is contemplating for rezoning.<sup>12</sup> Most of the land in the Jerome Avenue study lies in

poorest urban congressional district in the country, approximately three-quarters of all of the housing is rent stabilized, and close to half of residents pay more than 50% of their income towards rent, making them severely rent burdened.<sup>13</sup>

Already, people can barely afford to live in the Southwest Bronx. Creating additional pressures that increase rents, speculation and harassment will likely mean that tenants will leave the city altogether. We risk becoming a city where poor and working class tenants can no longer live.



*Tenant Leader Lamar Howell of 955 Walton Avenue facilitates at a tenant meeting for the first time!*

Every time a rent stabilized tenant leaves their apartment, landlords are legally allowed to increase rents by at least 18%.<sup>14</sup> On top of this, landlords can raise rents by passing off the costs of Individual Apartment Improvements and Major Capital Improvements for repairs and renovations made to the apartment during its vacancy, making the legally allowed rent increases significantly higher.<sup>15</sup> This means not only do tenants lose a rent stabilized apartment, but the apartment is made less affordable for others in the community and eventually becomes part of the open market. Thus, displacement pressures, which lead to tenant push-out, risk jeopardizing the overall affordability in the community.

Because the Bronx is home to the highest percentage of rent burdened tenants in the city, this risk is particularly acute.<sup>16</sup> If rents rise to \$1,875, only 10% of Community Board 4 and 5 residents could afford them.<sup>17</sup> When tenants can no longer sustain a massive rent burden—paying upwards of 50% of their income towards rent—or cannot double up, they must leave their homes. And because the Bronx is currently home to some of the lowest rents in the city, there is no other neighborhood in the city to go to.<sup>18</sup>

## The History of Displacement and Community Organizing in the Southwest Bronx, and Implications for the Current Context

In order to talk about the current context of displacement in the Southwest Bronx, we need to look at history. There is a common critique that community members are only objecting to rezoning plans because people “have been conditioned to the fear of change.”<sup>19</sup> We know that residents are not afraid of change in the abstract; they are drawing on real experience and real history. Current community members have lived through many types of displacement and neglect and experienced repeated trauma as a result. It is not that people are just afraid of change. They have repeatedly experienced change in the form of harassment and displacement. Rather than dismissing their concerns, we have to be even *more* careful in communities that have lived through such experiences.



**1111 Gerard Avenue Tenant Leader Marjorie King speaks out against the building-wide illegal rent overcharges at a press conference!**

Over the last few decades, the history of the neighborhood for many Southwest Bronx residents is one of disinvestment and displacement. Since the founding of our nation and continuing today, city, state, and federal housing policies —many founded on overtly racist ideologies —have shaped the housing landscape and perpetuated segregation and inequality. We highlight several policies here to provide a snapshot of how

displacement has occurred in the Bronx historically. This is not an exhaustive list, but rather components of a larger, deeply traumatic history.

As part of New Deal legislation in the 1930s and in response to the Great Depression, the federal government created programs designed to save small homeowners from foreclosure and make it easier for people to take out loans to build and purchase homes.<sup>20</sup> But these benefits were not equally available to everyone. Federal agencies involved with mortgage refinancing and lending created maps that rated neighborhoods according to the level of investment risk, assigning the lowest ratings to neighborhoods where there was a “threat of infiltration of foreign-born, negro, or lower grade population.”<sup>21</sup> This practice of “redlining” (so called because low-rated neighborhoods, including many in the south and central Bronx,<sup>22</sup> were colored in red on the federal government’s maps) prevented people of color from accessing mortgages backed by the government and “destroyed the possibility of investment wherever black people lived.”<sup>23</sup> With entire neighborhoods deemed ineligible for federal loan guarantees, private lenders steered clear, causing housing to deteriorate and property values in communities of color to plummet. At the same time, the government facilitated “white flight” from New York City and other urban areas by offering white families sizable government subsidies to purchase homes in high-rated white areas in the suburbs.<sup>24</sup>

In the 1960s, Robert Moses— (in)famous for overseeing billions of dollars of public works projects that fundamentally reshaped New York City<sup>25</sup> and displaced half a million people<sup>26</sup> —advanced a vision for the Bronx which furthered segregation in the borough. The Cross Bronx Expressway was constructed, displacing 5,000 residents and isolating the low-income communities of color in the South Bronx from the rest of the borough.<sup>27</sup>

Subsequently, in the 1970s, the Bronx experienced a decade of fire. “[R]ocked by the decline of manufacturing and the flight of the white middle class to the suburbs”<sup>28</sup> —white flight that had been fueled by federal policy and took a substantial hit to the city’s tax base —New York found itself in a budgetary crisis. Seeking to cut costs, the City reduced essential services, cutting fire services “in a way that stacked the deck against poorer neighborhoods ... [and] allowed smaller fires to rage

uncontrolled in the city's most vulnerable communities."<sup>29</sup> More than fifty census tracts in the Bronx lost half or more of their buildings to fire and abandonment, resulting in "blocks and blocks of rubble"<sup>30</sup> and exacerbating the effects of years of redlining, segregation, and divestment.<sup>31</sup> Although ordinary fires caused most of the destruction, some landlords deliberately burned down buildings in order to cash in on the insurance payouts.<sup>32</sup>



*CASA members' victory pose in reaction to Mayor de Blasio's commitment to supporting Right to Counsel.*

Throughout this history of rampant displacement, residents have organized and fought back. Community groups, such as Banana Kelly, empowered residents to take control of the land, reconstruct the buildings through sweat equity, and build community. This period of reconstruction stretched beyond the '80s and into the '90s as non-profits rehabbed buildings, rebuilt the infrastructure of the community, and started to provide social service programs.<sup>33</sup>

Residents have remained in their community despite governmental failure. They have lived through decades of racist housing policy. They rebuilt the Bronx with their own hands. But those fights aren't over. Tenants today continue to fight in the legacy of those who rebuilt the Bronx. In addition to those struggles, current residents are now faced with a rezoning, which they experience as a continuation of this history.

## Current Tools and Tactics that Landlords Use to Displace People in the Southwest Bronx

Our previous research and the experiences of our members demonstrate that landlords in the Southwest Bronx are already employing multiple long-term strategies in their attempt to displace rent-stabilized low-income tenants of color and to prepare and upgrade the current housing stock for future, whiter, higher income-earning tenants.

- **The first tactic is to deny tenants decent living conditions, quality repairs, and essential services in an attempt to make their homes unlivable.**
- **Second, landlords exploit several city and state housing laws, capitalizing on loopholes and lack of enforcement mechanisms which allow them to unjustly increase the rent burden on rent-regulated tenants. They use the Major Capital Improvement (MCI) program to impose additional charges on tenants. They also add confusing and often unwarranted fees to tenant's rent bills, knowing that it will be difficult to challenge them. And they exploit the system of preferential rents to threaten tenants with rent increases if they organize.**

These tactics and tools, which are explained in detail below, ultimately create the conditions necessary to facilitate tenant displacement: the forced removal or movement of people out of their communities. The rezoning process will increase financial incentives for landlords to utilize these tactics already at their disposal.

### Displacement Tactic: Denial of Basic Services and Repairs

Landlords in the Southwest Bronx subject tenants to deplorable conditions. Many working-class tenants of color are denied heat and hot water, experience constant leaks and mold, live with un-repaired collapsed ceilings and broken windows, are exposed to lead, and have no gas for months.

This denial of basic services is designed to create harsh

environments in which tenants must either endure unsafe and substandard living conditions, or leave the Southwest Bronx. Obviously, neither choice—being displaced from one’s home and community or living in substandard conditions—is a viable option. Unfortunately, many residents are put in a position to choose either/or.

It is incredibly hard for tenants to compel unwilling landlords to complete repairs. The complaints system places the onus on the tenants, and there are numerous barriers to navigating the system. Tenants can make complaints to the super or management office. If ignored, tenants can then call 311 to make a formal complaint with the New York City Housing and Preservation Department (HPD), which, upon inspection, can result in a violation for the landlords. Many landlords understand that they will not be penalized in a meaningful way, and thus do not respond to orders to complete repairs. If landlords do respond to complaints or violations, they often perform patch-work repairs that don’t address the actual issues. A collapsed ceiling with a leak may merely be plastered up, without the landlord ever actually addressing the plumbing or pipes.

By refusing to spend money on quality repairs, landlords increase their profit margins. Meanwhile, tenants are forced to complain to the City or to confront the landlord, which exposes them to risks of harassment and threats. Persistent or outspoken tenants can then end up in housing court fighting for the future of their home, stability, and family.



*Tenant Leader Luciano Manzueta exposes the kind of conditions tenants at 1221-25 Sheridan Avenue have been living with for months to the press.*

Previously collected data demonstrate that this tactic is already in use by landlords in the Bronx. In fact, a survey of neighborhood residents conducted for the Bronx Coalition for a Community Vision policy platform found that 57% of respondents reported problems getting repairs done, 27% have lived without basic services, and 33% have seen a decrease in maintenance services in their building.<sup>34</sup> And data show that it is challenging for tenants to navigate the systems to make repairs or to get positive results. In a 2015 report by the Stand for Tenant Safety Coalition, 71% of tenants rated their experience reporting a problem to 311 as fair or poor.<sup>35</sup> For many tenants, problems were never addressed: 58% said they did not think that calling 311 led to the problem being resolved.<sup>36</sup>

This displacement tactic is already in the playbook of unscrupulous landlords. If landlords feel that, as the result of rezoning, they stand to profit even more from displacing low-income tenants, those tenants will be at increased risk of being subjected to denial of basic services and repairs. As we discuss in our recommendations section, additional protections are crucial.

## Displacement Tactic: Loopholes and Lack of Enforcement in Laws: MCI’s, Non-Rent Fees and Preferential Rents

Landlords are exploiting weak laws to exert displacement pressures on tenants. The three primary legal loopholes are: Major Capital Improvements, non-rent fees, and preferential rents.

### Major Capital Improvements (MCIs)

Major Capital Improvements (MCIs) were enacted into law as part of rent stabilization in order to incentivize landlords to maintain their buildings and allow them to do building-wide systemic upgrades such as replacing boilers, roofs, or all the plumbing. MCIs pass along the total cost of these repairs to tenants as a permanent rent increase that continues to be paid for the lifetime of the tenancy, even after the initial investment is recouped. But the MCI system was not an effective policy for maintaining buildings, as landlords chose insurance payouts during the decade of fire as 80% of buildings in some Bronx neighborhoods were reduced to rubble.<sup>37</sup>



The MCI law is still on the books, despite the fact that it is no longer a necessary policy, given today's thriving real estate market and the almost guaranteed returns that landlords of rent stabilized yield on their investments (41 cents for every dollar invested).<sup>38</sup> Furthermore, landlords are profiting highly off the program. A 2016 article reported that the MCI program "will allow city landlords to reap [a] windfall estimated to be more than \$270 million" that year.<sup>39</sup>



*The Tenant Association of 1475 Sheridan Avenue protests MCI's and announce the filing of a Supreme Court case in response to the conditions they endured during months of renovations.*

Today, the MCI system is used by landlords as a way to impose an additional rent burden on tenants. For example, in 11 buildings CASA is currently organizing in, representing 900 families, the average MCI permanent rent increase in a 2-bedroom apartment will be \$126. In rent-stabilized apartments, landlords are prohibited from imposing an annual MCI increase that exceeds 6% of a tenant's rent.<sup>40</sup> However, landlords can flout this limitation because enforcement only takes place if tenants report the violation, and tenants often are either unaware of their rights or afraid of retaliation if they challenge their landlord. And even if tenants do attempt to challenge the increases, they must go through an administrative process with the New York State

Division of Homes and Community Renewal (DHCR) that can take anywhere from two months to years to be approved.

## Non-Rent Fees

Non-rent fees are another area where landlords have used legal loopholes and lax enforcement to exploit low-income tenants and drive up rent burdens. Non-rent fees are charges that are added to tenant's rent bills. These include fees for appliances, legal fees, repairs fees, and damage fees. These fees are often confusing and unwarranted: arbitrarily applied to unsuspecting tenants on their monthly rent bills. Some non-rent fees are legally permitted, but some are not, and lack of clarity in DHCR regulation leads to abuse of the law.

Tenants can refuse to pay these fees, but many pay anyway because they are unaware of their rights or concerned about retaliation. While landlords cannot take a tenant to housing court for non-payment of fees, many tenants end up in housing court unrepresented and unaware of their rights. In these cases, a landlord's attorney may successfully include the non-rent fees on a stipulation, thus obligating the tenant to pay them.



*Tenant Leader Daisy Bautista knocks on doors at 1005 Walton Avenue, encouraging neighbors to join the court case for repairs.*

As with MCIs, many tenants do not challenge fees, even illegal ones, because they are not aware they can, do not know how, or are afraid to do so. Even if they do pursue a challenge, tenants' only recourse is to file an administrative overcharge complaint with DHCR. As documented in our previous report, this is a lengthy process that can take months or even years,

and is challenging to navigate: tenants must collect numerous documents, have a legal team review them and draft a brief, and then submit that information.<sup>41</sup> Moreover, there is a four year statute of limitations, so if a tenant does not challenge the fee within four years of the time it was first charged to them, they are barred from bringing a claim. And when tenants do win these administrative cases, their monetary gains are applied toward their rent in the form of rent reductions: leaving the tenant feeling vulnerable by not paying their full rent, or putting them in the position of having to file an additional complaint if the rent reduction is not applied. While our research found that tenants who had filed overcharge complaints were overwhelmingly successful, relying on such a long, administrative process for relief is not a successful solution as the burden is still on the tenant.<sup>42</sup>

Our previous research has shown patterns that point to the likelihood that landlords are using fees to increase tenant's rent burden in an attempt to displace them from their homes. Our report, *The Burden of Fees*, demonstrated the extent to which landlords can exploit this fee system to increase their profits and burden tenants. 81% of tenants surveyed had been charged a fee on their rent bill.<sup>43</sup> From the rent bills we reviewed, the average tenant was being charged an outrageous \$671.13 on their most recent rent bill. For these low income tenants, such a sum represents a significant increase in their rent burden. Our subsequent report addendum to *The Burden of Fees* expanded this research beyond the Bronx and demonstrated that the charging of fees was a pervasive issue for low-income tenants citywide.<sup>44</sup>

## Preferential Rents

A final law that landlords exploit to promote displacement is that of preferential rents. The maximum or legal rent that a landlord may collect from rent stabilized tenants is subject to city and state regulation. While landlords cannot charge above the specified rents, they can charge a lower, “preferential rent” if they choose to do so.<sup>45</sup> For example, if a landlord in the Bronx can legally charge \$1,385 for a one-bedroom but the current market only yields \$1,200, the landlord can choose to rent out the apartment to a tenant at the lesser rent, calling it a preferential rent. A landlord must properly inform tenants they are signing a preferential rent lease, but sometimes fail to do so. These preferential rents are not permanent: once the lease expires in a year or two, the landlord can eliminate the preferential rent and charge the full legal allowed amount. Currently, approximately 23% of all rent stabilized tenants have preferential rents.<sup>46</sup>

Preferential rents can be exploited to promote displacement in several ways. They can be a deterrent to organizing. Landlords can use the threat of discontinuing a preferential rent to suppress tenant organizing activities, and to keep tenants from reporting hazardous conditions or harassment. Tenants with preferential rents living in bad conditions who choose to exercise their rights must make a conscious choice to put themselves at risk of losing their preferential rents. In addition, tenants who are not aware they are being charged a preferential rent can be completely unprepared when their rent changes suddenly. Tenants can watch their rents rise inexplicably from \$1,000 to \$1,500, and be left without having any actual legal claims to fight the sudden rent increase. Moreover, tenants who actually are overcharged when their preferential rent ends may not be aware of this, or of the fact that they do have legal recourse.



CASA members testify in support of Intro-214A, Right to Counsel, at City Council chambers.

Landlords exploit legal loopholes and lack of enforcement in these areas—MCIs, non-rent fees, and preferential rents—often in combination with one another. These tactics serve to increase the rent burden on tenants. Coupled with denying basic services and repairs, these landlord tactics contribute significantly to displacement pressures. Historically, housing court has also contributed to displacement, as it was used as an eviction mill by landlords, who capitalized on the fact that most tenants were there without legal representation. CASA has organized around this issue for years, and is excited that the Mayor has announced support for Right To Counsel—providing legal representation to low income tenants in housing court. However, at the time of this report, the law has not yet passed. Our recommendation section discusses the need for

passage, implementation and monitoring to ensure that housing court is no longer a site of displacement for tenants.

If rezoning increases the financial gains that landlords stand to make by displacing tenants, there will be more incentive for landlords to use these tactics to push tenants out.

# Tenant Profile

## Batista

1485 Macombs Road

Interview translated from Spanish

*Batista has been in the Bronx over half her life, living 27 years in her current 'building. After a 16-year career as a school bus driver, she recently resigned to care for her sick father as a health attendant. She is active in CASA, as well as the tenant association of her building.*

Batista has been in the Bronx over half her life, living 27 years in her current building. After a 16-year career as a school bus driver, she recently resigned to care for her sick father as a health attendant. She is active in CASA, as well as the tenant association of her building. Batista has experienced numerous harassment tactics from her landlord. She has been charged fees by the landlord “without specifying...or saying what those fees are.” She suddenly began receiving fees for a washing machine, despite never having been charged these fees in the past. “I felt very bad,” she says, “very frustrated, because every month it kept accumulating and accumulating.” She has also experienced landlord refusal to do repairs. And four years ago, Batista and other tenants applied for and were granted a rent reduction, but her landlord never actually reduced her rent, capitalizing on the fact that she was not aware the reduction was supposed to have taken place. “He was supposed to reduce everyone’s rent who signed the application,” she says, “and because I didn’t know, he didn’t reduce it. He stayed quiet. He was supposed to reduce it automatically, and he hasn’t given it to me.” These harassment tactics take a toll. “I felt really bad,” she says, “because from one moment to another...they raise your rent without you expecting it...You feel bad and then you are harassed...[T]hey don’t make repairs.”

The landlord hires a changing cast of people who Batista feels harassed by. “I have never seen the landlord,” she says, “nor the manager.” They operate by changing manager after manager.” “We live nervously,” she says. “I’ve felt very depressed,” she continues, “because they knock on your door—POW POW POW POW—like they own the apartment, like they pay the rent. So you have to open the door, and there’s always

two people...I don’t know who they are because they’re not the landlord but representatives of the landlord. And they’re always wanting to take pictures of my home.”

But reporting these issues has its own risks. “I even am afraid to call 311,” she says. “When they find out you make complaints, right away, they send you to court. I even almost spent 5 months going to court. They wouldn’t close the case without me owing them or nothing, they wouldn’t close the case, just to bug me so I would lose another day of work going to court.” She sees these tactics as part of an attempt to displace tenants. “[T]he people who have been long-term in a building, they abuse so much, because what they want is that people leave so they can rent out to someone else. ...what they want is to harass you in such a way that you will leave.”

Batista advocates for “more, stronger laws against landlords because they abuse tenants so much.” “Stronger laws,” she says, “[t]o give you more security and confidence because you live with fear...you live with the fear that they can displace you at any moment.”

**“[W]hat they want is to harass you in such a way that you will leave.”**

# Tenant Profile

## Ram Bhul

1591 Townsend Avenue

*Ram Bhul grew up in British Guyana, and came to New York at 16 with his family. He has lived in the Bronx since then: “I got into the Bronx, and I never left the Bronx” he says. Bhul has been a volunteer with New York Cares helping with recovery efforts after superstorm Sandy, and is also a member of CASA.*

Bhul was balancing numerous responsibilities—work, school and family care—when his negative experiences with his landlord began. “I worked four part-time jobs,” he says. “Two hours sleep, full time college, and I almost finished my PhD when the landlord started giving me a hard time. In that moment, my mom was very ill with breast cancer.”

Bhul had always paid his rent on time and thought his relationship with his landlord was on solid ground, but the landlord started to use multiple tactics in an attempt to displace him. One day, after Bhul had pushed for a repair in his apartment, he came home to find his electricity off. “I came back [from school], I walk in to my apartment: click-click, no light.” At first, he couldn’t believe his landlord would have done this. He thought “he’s a just man, he’s a priest...he wouldn’t actually go that far.” But it became clear that it was in fact his landlord. “So then finally,” he says, “I decided for the first time in my life I would call 311.” The 311 inspectors found that his landlord had left his apartment in disrepair. “The radiator was leaking steam, and the steam was going up and softening the plaster,” he says. “The bathroom ceiling came down.” His landlord also stopped cashing his rent checks. Ultimately, Bhul wound up in housing court.

Bhul describes court as “like another harassment from my landlord. Because his lawyer comes screaming and yelling at you.” The court itself is challenging to navigate. “I was not sure what the process was, and what the procedure was of going to court for the first time. And even after the first time, what happens when you go the second time? The third time?” Bhul was determined to win his case. “I was paying my rent, my apartment was running down, my apartment had no heat, some

days had no hot water. I’m always on the right side,” he said. His fight in court was taxing. “I did everything,” he said. “I was late for my job... I received four or five letters in my file at the job that I’m late for work. But without a home, I can’t go to work. I need my home to take my shower, get dressed and everything. So I have to fight for my home. [It] was really hard, and the court didn’t really care. I was alone.” “The landlord, his goal is to get me out of the apartment,” Bhul said. “He will do anything he can. I had to put up a shield. It’s like you pull a trigger, I had to block it, to move away. How I did it, I don’t know. I only had like one hour...sleep some times.” Bhul feels hopeful that the Right to Counsel (providing low-income tenants access to legal representation in housing court) could “be a very good resource that can help us out,” and he advocates for tenants to be pro-actively notified of their rights, and the procedures in court, when they move in to their apartments. The more educated tenants are, the stronger defense they will have, because landlords exploit and harass tenants who do not know their rights. “They take the lack of knowledge,” he says, “and they turn it against you, and abuse you and insult you and then rip you off at the same time.”

**“I came back [from school], I walk in to my apartment: click-click, no light.”**

# Tenant Profile

## **Maria Valerio**

**1295 Grand Concourse**

**Interview translated from Spanish**

*Maria Valerio grew up in Santo Domingo and lived in lower Manhattan when she first moved to the U.S., but could not afford to stay there. She has lived in the Bronx, with her daughter, since 2008, and has “been battling ever since...fighting for something affordable.*

Maria Valerio grew up in Santo Domingo and lived in lower Manhattan when she first moved to the U.S., but could not afford to stay there. She has lived in the Bronx, with her daughter, since 2008, and has “been battling ever since...fighting for something affordable.” Valerio is passionate about her job working with special needs children. “I’m very dedicated,” she says. “It’s a rewarding career, and you need to be really dedicated to provide the type of love and the time necessary.” Valerio is also involved with CASA, fighting for affordable housing in the Bronx.

Valerio has experienced harassment by her landlord in the form of failure to make necessary repairs. “I’ve tried to always make complaints directly to the office,” she said, “but...the landlord, on many occasions, hangs up the telephone.” Her repair requests have gone ignored, and, she says, “I’ve had to withhold my rent so they make the repairs I need in my apartment.” But the issues persisted. The judge has ordered the landlord to make repairs, but the landlord has evaded responsibility. “[T]hey gave me two dates in which I’ve had to call out of work or pay for someone to stay in my apartment [to be home for repairs], and they never came. They say that I don’t give them access to my apartment, which is a lie.”

The landlords have failed to maintain the apartment for years, making, at best, patchwork repairs. “The ceiling leaks,” Valerio says. “We’re talking about 7 years with the same problem that hasn’t been resolved...it doesn’t matter if they...do patch work or something but if they don’t fix the ceiling, which is where they need to invest, then it’s not worth it.”

The failure to make repairs has taken a toll on

Valerio and her daughter. “[I]t’s been frustrating because I’ve had a daughter that’s had to go through all of this with me,” she says. Valerio has slipped before due to water leaking from the ceiling, and this is now a persistent concern of her daughter. “Every time she sees something like a little bit of a yellow wall, she’ll say ‘Oh mommy, be careful, because you might fall,’” she says. Valerio once had to take leave from her job because of a fall in her apartment.

Valerio had previously navigated the court system alone, but now, she says: “I’m no longer alone...I have the community and family of CASA who is helping me...and I’m not alone in this anymore.”

Valerio calls on landlords and housing court judges to see the humanity of tenants like her fighting for their basic rights. “I’ve seen single mothers like me that take pictures or have proof of their money orders, and don’t get a chance to reclaim their apartments,” she says. “I’d like to say, if humanly possible, for the landlord...the judge, if they put themselves in the shoes of tenants, for each person that goes to housing court.”

**“I’ve had to withhold my rent so they make the repairs I need in my apartment.”**

# Tenant Organizing Profile

## Tenant Organizing Profile: The Power of Collective Action at 1777 Grand Concourse

*For more than 150 families who live at 1777 Grand Concourse, a building just north of the Cross Bronx Expressway, living with dignity and respect has been a daily fight. Since 2012, the building has been sold three times, almost doubling the property value<sup>47</sup>, yet tenants have not benefited from the change in ownership.*



*The day before Thanksgiving, tenants at 1777 Grand Concourse hold a press conference to protest their lack of cooking gas and publicly shame their landlord for lack of accountability.*

On June 3, 2016, the cooking gas was shut off in the entire building due to a gas leak. After waiting a couple of months for the issue to be fixed by the landlord, Dilcia, a tenant in the building decided to take action by suing her landlord in court. Dilcia has lived in the building for 10 years, has family in the building, and has built relationships with her neighbors. Dilcia met an organizer from CASA and learned the importance of tenant organizing and collective action. These deep relationships inspired a commitment to working collectively. She was determined to work with all her neighbors instead of taking on this fight alone.

After discussing the issues with her neighbors, they joined forces as a tenant association to begin a group case for repairs with the support of Bronx Legal Services. Working with CASA, Dilcia understood they needed as many tenants as possible to join the case. After two months of flyer-ing the building, hard work and strategizing at meetings, one-on-one conversations in the lobby, and more, over 60 tenants had signed up.

Dilcia was also aware that tenants needed to develop other strategies to build and demonstrate their power. In early November of 2016, Dilcia and other tenant leaders led and facilitated a tenant association meeting. They talked to their neighbors about the case and about the urgency to take action to fight for their rights and dignity. Tenant leaders also realized that in order to get more tenants involved, they needed to address internal issues such as language barriers and racial tensions. They worked closely with CASA to structure trainings and conversations about language and racial justice. These conversations were essential in bridging and building relationships to further the organizing work.

After several meetings, tenants decided to involve the media by scheduling a press conference to publically hold their landlord accountable. While some tenants felt equipped to speak publically and present their issues, there were others who were nervous, scared, and frustrated. In order to prepare, tenant leaders ran a mock press conference at a tenant meeting, helped edit each other's portions of the agenda, provided feedback, and crafted their message to the media. The day before Thanksgiving, tenants held the press conference to a large crowd and garnered great coverage. Tenant leaders who spoke shared a wide variety of experience and represented the diversity of the tenants in the building. And the media work did not end there. On the following day, Thanksgiving, Univision showed up to the building without any prior notice. The tenant leaders quickly organized, called neighbors, door-knocked, got their signs and held an impromptu press conference about what it meant to celebrate Thanksgiving without gas. One week later, gas was turned on for about

50 tenants: one-third of the building.

But tenants did not relent or stop their fight. They spent the majority of December 2016 collecting signatures for a building-wide application to DHCR to have their rents reduced for lack cooking gas and broken elevators. Over 60 tenants ended up filing the rent reduction with the state, and a few weeks before Christmas, the judge on the case ordered the landlord to fix the gas by February 6th 2017.

When February 6th came and went without the gas being restored, tenant leaders moved to action. Three leaders attended CASA's five-week leadership development course to further develop their skills and knowledge. Tenant leaders brought in attorneys to address concerns about their rights as immigrants in the new political climate. Leaders also decided that they needed to celebrate their resistance, hard work and community. They cooked, collected donations and held a celebration in the lobby of their building. The celebration inspired a sense of community, accomplishment and appreciation—and renewed commitment to keep fighting.

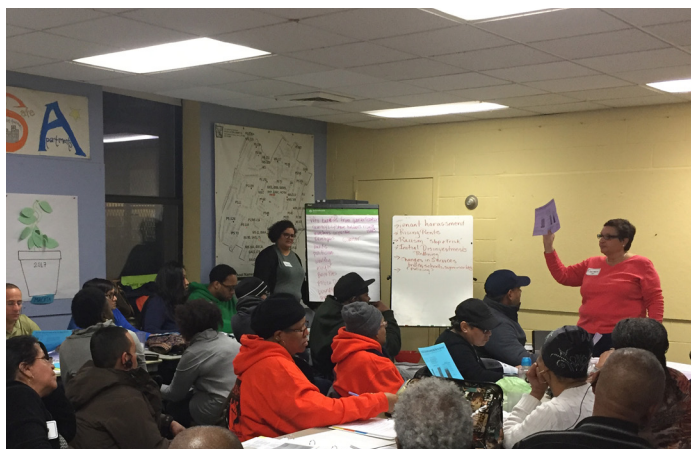
The struggle for these tenants is ongoing, and two-thirds of them still don't have cooking gas at the time we are writing this paper. But they have gained a sense of their power, their leadership and their community. Their leadership has taken many forms: speaking at press conferences, flyering and door-knocking, turning their homes into meeting spaces, coordinating a tenant celebration, and providing each other and their families support. After 10 months of organizing there are new networks and a new sense of community. These tenants will use these organizing skills and networks to win justice for themselves and the community.

**“But they have gained a sense of their power, their leadership and their community.”**



## Rezoning Will Increase Displacement and Jeopardize Affordability

As we have outlined, there are a series of tactics and mechanisms that landlords are already exploiting to displace tenants in the Southwest Bronx. The City's plans for rezoning threaten to increase displacement pressures without adding protections. While the City could be releasing a robust policy agenda to combat displacement and preserve affordable housing, they've instead laid out a plan to facilitate the construction of privately owned residential housing, some of which they will subsidize at levels that will be mostly unaffordable to current residents. They have done so without offering sufficient neighborhood-based preservation and anti-displacement measures.



*CASA Leader Carmen Vega-Rivera facilitates a teach-in on the Jerome Avenue rezoning at a Leadership Development Institute session for members.*

City officials have repeatedly said that rezoning is not connected to displacement,<sup>48</sup> but the links between the two are clear. Rezoning changes the use of the land. Changing the use of land changes the value of land. In the Jerome Avenue rezoning, there is almost no publicly owned land available for development,<sup>49</sup> which means the government is changing the uses and values for private purposes. The plan is explicitly about changing the use of manufacturing, industrial and auto-related land to be used for residential housing, making the land significantly more valuable, given that land

zoned for commercial use can be valued up to twice as high as industrial in the same area, and land zoned for residential uses can be valued as much as four times as high as industrial.<sup>50</sup> When the government changes the rules in this way, it is not only influencing the housing market, it is creating an investment opportunity. This increases the incentives for landlords to use the tactics already at their disposal to attempt to displace existing tenants so they can make more profit. Unless we can control what kinds of investment opportunities are created, and have strong protections against displacement, rezoning will translate into putting money in the pockets of private developers while displacing current residents.

## The City's Current Rezoning Plans Do Not Create Genuinely Affordable Housing

In the context of privately owned land that's zoned for residential housing, the City has put forward two primary tools to control what kind of new housing and commercial development is built in the neighborhood and for whom.

One is Mandatory Inclusionary Housing (MIH), which mandates that developers set aside a portion of the new units to be affordable. The complicating factor is that "affordability" is not universal. Even if new units meet a definition of "affordability," they may not be genuinely affordable to community members. For the Southwest Bronx, the levels of affordability that MIH mandates are out of reach: excluding 78% of neighborhood residents in Bronx Community Boards 4 and 5.<sup>51</sup>

The other tool is the use of subsidy programs: using public money to subsidize developers to build housing. The subsidy program that currently provides the deepest level of affordable housing, called ELLA, creates apartments that are affordable, primarily, to families making \$50,000 per year.<sup>52</sup> Given that the median annual income for a family of 4 in the Bronx neighborhoods being rezoned is \$24,000, this is also inadequate.<sup>53</sup>

A rezoning is a statement about how and for whom a neighborhood should be designed. The City's rezoning sends the message that the neighborhood is not being designed for low-income people or current residents. Neither MIH nor ELLA can be used to create housing that is truly affordable for

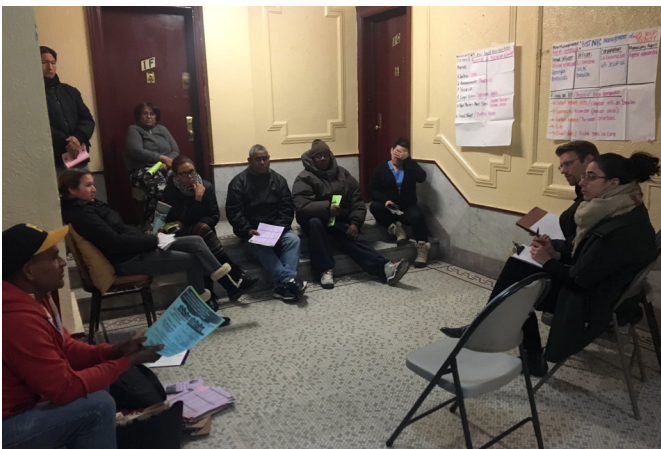
residents of the Southwest Bronx. Unless the city creates new programs, current residents will not benefit from the new housing development, and those with higher incomes will move in, creating more displacement pressure.

## Unaffordable Housing Creates Displacement

Many people argue that higher-income tenants will fuel economic growth and raise living standards as the neighborhood changes.<sup>54</sup> While this may be true, the critical question is whether current residents, low-income people of color, will still be around to benefit. For example, after the rezonings in Williamsburg and Harlem, the neighborhoods became dramatically whiter, wealthier and more expensive.<sup>55,56</sup>

In a real estate market where housing is privately owned, higher income tenants mean higher profits. Once higher income tenants begin moving into a neighborhood, and especially if they move in rapidly, landlords of existing housing will have an increased financial incentive to push out low-income, rent stabilized tenants. As we have outlined, many of these landlords are already using a variety of tactics to displace tenants: harassing tenants and exploiting legal loopholes. Giving them this additional profit incentive will only embolden their efforts.

not end there. As tenants are forced to move, the apartments they leave behind will become less affordable. If these displacement pressures are successful, individuals will be hurt, communities will be disbanded, and we risk losing one of the few remaining affordable neighborhoods in our city.



*The Tenant Association at 65 Jesup Avenue meets with their attorneys to strategize filing a case for repairs.*

As we know, displacement can and will have devastating impacts on individual tenants and their families. But it does

## The City Must Promote Real Affordability and Implement Strong Anti-Displacement Measures

We don't need to repeat our past. We don't need to work within the confines of the market. We need to create new possibilities and we need to raise the expectations and standards for what it means to be a New York City tenant. We can fuel investment and growth but must do it in a way that respects our history and builds our dignity. Creating bold new financial models for deeply affordable housing and inventing new strategies to stop displacement are crucial in the fight for a just city.

## Create Housing that is Affordable to Current Residents

Creating housing that meets current neighborhood needs will not spur this cycle of displacement. That is why building real affordable housing is a key preservation and anti-displacement policy. So how can we do that in the context of a private housing market? We should not use any public dollars or public land to finance housing that is not affordable to the public. ELLA and MIH won't work in the Southwest Bronx, because they do not produce housing that is affordable to the people who live there. We need a new way of subsidizing affordable housing that meets neighborhood needs. Here is what a real affordable subsidy program looks like:

Here is what a real affordable subsidy program looks like:

|                         |   |
|-------------------------|---|
| <b>50% of new units</b> | <b>For families making up to \$56,000 (41 - 60% AMI*)</b> |
| <b>25% of new units</b> | <b>For families making up to \$36,000 (31 - 40% AMI)</b>  |
| <b>25% of new units</b> | <b>For families making up to \$27,000 (0 - 30% AMI)</b>   |

\*Area Median Income (AMI)

## Protect Tenants from Displacement

We need a robust preservation strategy and we need it now, before the rezoning happens and land prices change. Here is what a robust preservation strategy looks like:

- **Pass, Implement and Monitor Intro 214-A, the Right to Counsel.** Mandating a right to counsel for tenants to protect their homes not only reduces evictions (research shows that legal counsel can reduce evictions by as much as 77%<sup>57</sup>) but it changes the nature of what housing court is. It also strips landlords of an effective harassment tool—threatening tenants with eviction knowing that they can win because they have power. A right to counsel establishes a new base line for tenant organizing—tenants no longer fear eviction as a result of organizing. The Mayor's announcement in February of 2017 to support, fund and pass this law was a major step forward. However, this commitment must still be enacted and implemented in a way that creates a right, not a program. Careful monitoring is crucial, and tenant voices must be centered in the process.



CASA members celebrate a historic Right to Counsel hearing with one of the bill's sponsors, Council Member Vanessa Gibson.

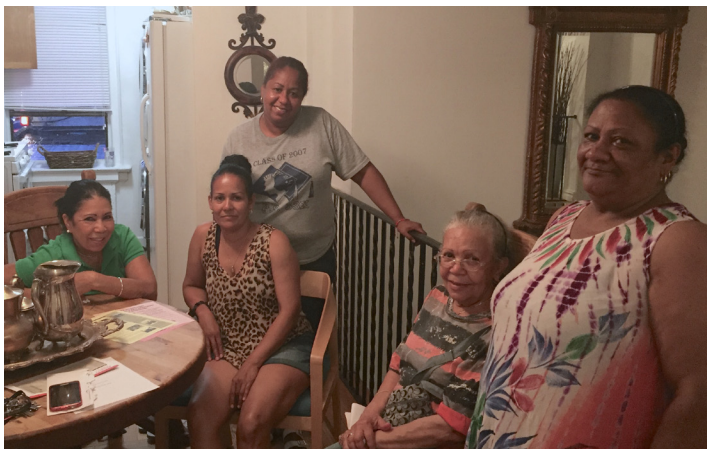
■ **Pass and Implement Citywide “Certificate of No Harassment” Legislation.** Renovations are one of the key tools landlords use to raise rents through Individual Apartment Increases (IAs) and Major Capital Improvements (MCIs), and, more generally, are often needed to attract higher-paying tenants. Renovations also represent a moment in the cycle of displacement where the City has a real ability to intervene because of the need for Department of Buildings (DOB) permits for most major work in both individual apartments and building-wide. A Certificate of No Harassment (CONH) law would discourage tenant harassment by preventing landlords with a history of harassment from accessing those DOB permits. Where now landlords see tenant harassment as a means to increase rents, a CONH law would turn tenant harassment into an impediment to higher profits. This proactive protection is urgently needed in the Bronx, and should be passed swiftly into law, and implemented with sufficient funding to both agencies and local community organizations to ensure the new law can be successfully used by tenants and enforced by HPD and DOB.



Tenants from 750 Grand Concourse protest former ‘NYC Worst Landlord’ Parkash in front of Bronx Housing Court.

■ **Implement our previous recommendations related to non-rent fees.** Our research has demonstrated that these non-rent fees are used by landlords to increase the rent burden on low income tenants in order to push them from their homes. Protection against displacement must include protection from these fees. Our recommendations can be found in our reports on non-rent fees: *The Burden of Fees*<sup>58</sup> and the subsequent citywide addendum to that report.<sup>59</sup>

In addition, cities across the globe are dealing with similar challenges and have introduced new and exciting ideas, from a racial justice analysis toolkit to giving tenants the choice of who buys their building in a foreclosure.<sup>60</sup> We should learn from them and make policies that work even better.



Tenant Leaders of 1212 Grant Avenue pose after a strategy meeting.

■ **Create an Anti-Displacement Task Force** with regular meetings between local community organizations and HPD to discuss strategies for preservation. The task force should have the necessary resources to use all of HPD’s available tools, including Alternative Enforcement Program (AEP), 7A, 8A loans, aggressive litigation, and Spiegel, in a collaborative, focused, and consolidated way to maximize impact. This task force should also create a live map of distressed buildings to help community stakeholders and City officials identify buildings in distress.

## Call to Action



*Tenant Leaders at 949 Ogden Ave. hold a press conference to announce that they're taking their landlord to court.*

We often hear a false narrative about why low-income tenants of color leave their communities. We are told that people leave their apartments by choice. We are told that tenants' fears of displacement in the context of a rezoning are not legitimate, and that they merely fear change. Landlords in that story are innocent. But that story is ahistorical—it denies the history of the Bronx and the racist and profit-driven housing policies that contextualize our lived experience today. And that story flies in the face of our 4,000 members. We have shown in this paper that displacement is real; that it is forced movement. The Southwest Bronx has a long history with displacement, and tenants have led the way in fighting back and rebuilding their communities. We have demonstrated that private for-profit landlords engage daily and systematically in practices to force tenants to move so that they can raise rents. Landlords strategically pick tactics to achieve the goal of displacing tenants. They deny basic services and repairs, utilize housing court as an eviction mill, and exploit loopholes and lack of enforcement in laws. If, as the result of a rezoning, landlords have an added financial incentive to displace tenants, they will already have these tools at their disposal.

In this pivotal moment, when the City is poised to move forward with a rezoning in the Southwest Bronx, we are faced with two possibilities. The first possibility is that the rezoning will be a gift to landlords. The tactics that landlords use to displace tenants will pay off when the

rezoning changes land values, and the promise of their slow and steady neglect will bear fruit in richer, whiter tenants. The other possibility, the one we fight for, is that this will prove to be a rezoning for low-income tenants of color. That the rezoning will be buttressed by so many anti-displacement policies that it will be something different: investment that corrects the past wrongs of our city's developers and policy makers and creates a new path forward of development without displacement. This paper shows that this alternate path forward is necessary, and our recommendations show that it is possible.

If current city regulations worked to protect against displacement, tenants wouldn't need to organize tenants' associations or form campaigns to win basic things like heat or the right to not be charged illegal fees. But tenants do fight these fights—every day. CASA members spend hours at meetings, doing the hard work of turning strangers into neighbors, conquering their fears to speak in public, and making demands of city officials so that they can have what they should have just by virtue of living in New York City. We should be awed by them, by their persistence to make their lives and their homes better for themselves and their neighbors, and we should follow their lead. The City has the opportunity to do just that, and to create a plan for the future of the Southwest Bronx that learns from, honors and protects these tenants.

The Bronx is a tipping point for our city: a measure of how we succeed and whose lives we value. If we cannot figure out how to bring in investment in the Southwest Bronx without displacing thousands of tenants, without repeating our past, then we can't do it anywhere.

**But if we can do it here we can do it everywhere.**

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