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Court Rejects Landlord Suit Against Tenant Organizers

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The owners of five buildings in the Bronx have failed to raise a triable issue of fact that tenant organizers interfered with their ability to get mortgages, a state judge has ruled in granting summary judgment dismissing the owners' case.

In *New Line Realty V Corp. v. United Committees of University Heights*, 1021/04, Supreme Court Justice Sally Manzanet-Daniels ([See Profile](#)) of the Bronx found that the owners had failed to submit "any evidence in admissible form" to prove that tenant organizers from the Northwest Bronx Community and Clergy Coalition had taken actions to frustrate their ability to get refinancing for their buildings.

The decision will be published Monday.

The owners had claimed that as a result of picketing, circulating fliers and other activities aimed at Washington Mutual Bank, the bank had pulled a letter of intent to refinance a mortgage issued in 2000. The owners claimed damages of \$1.8 million.

The organizers denied any intent to interfere with the owners' prospects for refinancing, and contended that instead they were trying to enforce a provision in the existing mortgage that required the owners to keep the buildings in good repair.

The owners' claim for tortious interference with prospective economic advantage was the sole surviving claim of their lawsuit, filed in 2004, which also raised claims of trespass and libel against the Northwest Bronx group, a 30-year-old, clergy-based community organization.

The owners had withdrawn their trespass claim, and Justice Manzanet-Daniels had [dismissed the libel claim](#) in 2006 (NYLJ, June 19, 2006).

Under a law adopted in 1992 designed to protect tenants and others who are asserting a First Amendment right to petition government, Justice Manzanet-Daniels wrote, the owners were required to show that their claims against the Northwest Bronx group have "a substantial basis in law and fact."

The 1992 law (Civil Rights Law §§70-a, 76-a) was designed to curb lawsuits aimed at deterring the exercise of free speech rights by both creating a higher standard to establish a claim's viability and giving defendants the right to counterclaim for violations of their speech rights. Suits aimed at stifling efforts to petition the government for redress of grievances and to express views at public hearings have been dubbed "Strategic Lawsuits Against Public Participation," or SLAPP, suits.

Both defendants - the Northwest Bronx coalition, an umbrella organization, and United Committees of University Heights, a member of the coalition - have contracts with the New York City Department of Housing Preservation and Development (HPD) to assess conditions in their buildings within certain Bronx neighborhoods; organize committees of tenants in those buildings; and present their complaints to HPD, Justice Manzanet-Daniels wrote.

Turning to the owners' claims that the organizers had disrupted their relations with Washington Mutual, Justice Manzanet-Daniels cited the deposition testimony of a senior credit officer of the bank that the bank had not sent the owners a letter of intent but had instead invited them to apply for refinancing.

The officer, Michael Allison, the judge further noted, testified that the existing mortgage had not been refinanced because the owners did not want to meet a condition set by the bank: that they remedy violations on some of their buildings.

In view of that testimony, Justice Manzanet-Daniels ruled, the owners had failed to meet the more rigorous showing that their claim had a "substantial basis" required by the 1992 anti-SLAPP statute.

In addition, the judge said, the owners had not raised a triable issue of fact, the more lenient and traditional standard for determining whether a party's claims can withstand a motion for summary judgment.

Justice Manzanet-Daniels characterized the owners' evidence as consisting of a "self-serving affidavit" containing "unsubstantiated assertions" and relying upon hearsay.

Lawrence M. Gottlieb of Hass & Gottlieb, who represented the owners, said no decision has been made concerning an appeal.

Wendy Stryker, one of the attorneys representing the organizers, said that with the judge's dismissal of all of the owners claims, her clients intend to pursue their

counterclaims, raised under the anti-SLAPP statute, for \$1 million in compensatory damages and attorney's fees as well as \$10 million in punitive damages.

Ms. Stryker of Frankfurt Kurnit Klein & Selz, represented the organizers at no charge. The organizers were also represented by Harvey Epstein and Raymond H. Brescia of the Urban Justice Center. Mr. Brescia is now a professor at Albany Law School.

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