



CHRISTINA AND INGRID FERRUFINO AND THEIR MOTHER, MARIA MOLINA

Lost Among the Ruins

Crumbling apartments. Rogue landlords. And the District doesn't seem to care.

BY BRENDAN SMITH

Maria Molina couldn't sleep in her dank and decrepit basement apartment, where the aged paint peeled in strips from the wall and murky water seeped through the floor.

Molina's 3-year-old daughter, Ingrid Ferrufino, kept her mother awake night after night with vomiting and fevers. Doctors at a clinic in Columbia Heights initially couldn't determine the cause. It took

4 The number of landlords the District of Columbia has prosecuted for housing-code violations since 2001

\$8.8M The amount in fines the District is owed for 22,000 violation cases

almost a year, a year in which Molina had to quit work to care for her daughter full time, before Ingrid was diagnosed with lead poisoning caused by lead-based paint in Molina's apartment at 5024 9th St. in Northwest Washington.

"We were living in really horrible conditions. If I had stayed there, my girl would have died," says Molina, who in 2004 moved into a second-floor apartment in the same complex.

Ingrid's diagnosis shouldn't be a surprise to her landlord, convicted slumlord David Nuyen. In 2002, Nuyen was sentenced to two years in federal prison for obstructing a federal investigation and failing to warn his tenants about potentially fatal lead-based paint. At the time, he owned 15 buildings in the D.C. area.

For Molina, the sting of anger bites deeper because Nuyen shouldn't be a landlord anymore. In 2001 he was sentenced to five years of probation in a separate D.C. case for more than 2,300 housing-code violations at two Southeast apartment buildings. Under the plea deal, Nuyen agreed to withdraw from the rental-housing business within three years and to abate all housing-code violations in his remaining properties until they were sold.

Neither has happened, according to the poor Hispanic tenants of 5024 9th St. N.W. and 906 Gallatin St. N.W., who are suing Nuyen over a long list of unsafe and unsanitary housing-code violations. Nuyen claims he has transferred ownership of the buildings to his ex-wife and son.

"I felt lied to," Molina says in Spanish. "To him the life of my child didn't mean anything."

The tenants' struggle highlights a much larger problem—namely, the D.C. government's history of failing to aggressively enforce housing-code violations, either as fines or criminal cases against landlords.

In the nation's capital, home to 550,000 people and more than 100,000 apartment units, the D.C. Attorney General's Office has filed criminal cases against only four landlords for housing-code violations since 2001. Those cases resulted in fines, community service, or probation for the owners of three buildings in Northwest and one in Northeast.

During the past five years the Attorney General's Office hasn't filed a single criminal case for housing violations in any of the poor neighborhoods in Southwest and Southeast.

After taking office in 1999, Mayor Anthony Williams vowed to crack down on slumlords, but that proved to be an extremely short-lived resolution, resulting in a handful of cases and only six days of jail time for one slumlord. Ward 1 D.C. Council member Jim Graham calls it "a pathetic record," blaming District prosecutors and D.C. Superior Court judges who handled the cases.

The D.C. Department of Consumer and Regulatory Affairs (DCRA) hasn't done any better in collecting fines from landlords for housing-code violations, according to a D.C. Inspector General report released in August. The report found the DCRA has "no cohesive,

agency-wide process that targets recoupment of outstanding fines and penalties." As a result, the DCRA is owed more than \$8.8 million in fines and penalties from more than 22,000 violation cases.

With luxury lofts spreading through many neighborhoods, the District's gentrification has exacerbated housing violations in some cases. As more landlords wish to cash in on the gentrification wave by converting apartment buildings into condominiums, they can make more money and avoid paperwork hassles and delays if the building is empty of renters.

"There is no easier way to get tenants out than by having conditions become so miserable that people are forced to leave," says D.C. Legal Aid Society senior staff attorney Julie

HOMEMADE REMEDIES:

Tenants at 9th and Gallatin in Northwest D.C. use duct tape and aluminum foil and hang their food in bags to ward off roaches and mice.

Below right, a container for mixing scalding-hot and freezing-cold water before a tenant can shower, using a plastic bowl as a scoop.





TENEMENT BLUES: Above, Marta Buruca, pictured with her daughter Janet in their crowded basement apartment, has led a tenants' fight over substandard housing conditions at two apartment buildings at 9th and Gallatin streets, below, in Northwest Washington.

Becker. "It's not that the city isn't standing up on the side of the tenants, it's that the city isn't standing up on the side of the law."

Patrick Canavan, whom Williams appointed last year to head the DCRA, says improvements are being made to collect housing-violation fines and to target repeat offenders in an effort to change the department's history of lax practices.

"I think we are doing a much better job than we often are given credit for," Canavan says. "We want to stop this from going forward. How do we do this differently so this never happens again?"

THREATS AT HOME

A block east of Georgia Avenue in Petworth, a bare concrete courtyard connects the three-story brick apartment buildings at 5024 9th St. and 906 Gallatin St.

Locks on the building entrances don't work, so tenants don't need to step outside to find trouble. Tenants have been robbed in the hallways by trespassers who smoke marijuana in the stairwells, says Marta Buruca, president of the Salvadoran Flowers tenants association for the Gallatin building.

"We can't tell them to go away," Buruca says in Spanish. "We can't say anything because they have knives and guns."

Buruca shares a small, shabby basement apartment with her husband, two children, and a cousin. The apartment is jammed full of clothes and secondhand furniture, with a shrine of candles and portraits of Jesus Christ and the Virgin of Guadalupe filling a nook

near the front door. Buruca says a rat bit her on the foot and she needed knee surgery after tripping over an exposed bathroom pipe.

Bread for the City, which provides legal and medical help to poor D.C. residents, kept getting complaints from residents of the two buildings, so the nonprofit organization did something it rarely does because of its limited resources. With pro bono help from D.C. law firm Gibson, Dunn & Crutcher, Bread for the City collected affidavits about the housing-code violations from 19 tenants and filed a lawsuit on their behalf in July 2005 against Nuyen, General Promotional Technology, and USA Home Champion Realty. The suit claims that Nuyen is the president of both companies, which own or manage the 9th and Gallatin buildings.

Nuyen denies he still owns any D.C. buildings, but General Promotional Technology's mailing address is Nuyen's home address in Silver Spring, Md. Bread for the City staff attorney Rebecca Lindhurst says that Nuyen "clearly is the owner" of the 9th and Gallatin buildings.

"He comes to the status conferences and talks about what repairs are being done," she says. "The building manager takes orders from him."

Over the past 16 months housing-inspection reports for both buildings have found extensive roach, rat, and bedbug infestations; holes in walls, ceilings, and floors; broken radiators; rotting cabinets; ceiling leaks; cracked window panes; busted faucets; missing smoke detectors; peeling paint;

broken appliances; and rodents nesting in a broiler drawer.

The violations have led to injuries for several tenants, according to their suit. Faustino Velasquez's 7-year-old daughter was bitten by so many bedbugs she needed to be treated at the hospital. A cockroach crawled into Jose Bonilla's ear, sending him to the hospital. Broken windows have fallen on several tenants, resulting in head or back injuries. A girl suffered smoke inhalation after an explosion in the basement.

In Molina's second-floor apartment, the kitchen ceiling collapsed recently from water leakage, revealing pipes and the floorboards of the apartment above hers. The roach and mice infestation is so severe that Molina hangs food in plastic bags on the kitchen wall, and she wraps her stove in aluminum foil to keep mice from scurrying across the rangetop.

Like many of the tenants, Molina says she cannot afford to find another place to live, as rents in the District have skyrocketed and the supply of affordable housing has dwindled. As a single mother, Molina works at McDonald's to support Ingrid and her 10-year-old daughter, Christina. Ingrid, who suffers from anemia because of her lead poisoning, is slowly recovering. The rambunctious 5-year-old kindergartner bounced around the apartment while Molina spoke of her worries.

"For pure necessity is why I have stayed here," says Molina, who pays \$675 a month in rent. "I hope there will be justice done for all the suffering we have gone through."

That hasn't happened yet. D.C. Superior Court Judge Gerald Fisher has ordered the tenants to keep paying their full rent to a management company even though D.C. law allows tenants to withhold part of their rent if housing violations exist. Bread for the City has sought a preliminary injunction ordering Nuyen to abate all of the housing-code violations, but Fisher has not approved the request.

Lindhurst says the violations are "a moving target" at the two buildings. "They will make repairs to just get through the [next] inspection, but they are not done in a workmanlike manner, and the violations quickly resurface," she says.

Despite several requests, Bread for the City couldn't persuade the D.C. Attorney General's Office to file a criminal case over the housing violations at the 9th and Gallatin buildings, Lindhurst says.

"They were aware of it and knew something had to be done, but they just didn't take any action," she says. "We've continued to put pressure on them, and there was some discussion of filing suit against the city, which may have prompted the city into action."

On Sept. 7 the Attorney General's Office filed a motion to revoke Nuyen's probation from his 2001 housing-violation case, just three days before his five-year probation was set to expire. The motion claims that Nuyen has violated his plea agreement by still owning four buildings and not abating the housing violations in the 9th and Gallatin buildings.

In June 2005 the Attorney General's Office filed a similar motion, which sought to revoke Nuyen's probation and opposed Nuyen's request for a two-year extension to sell his buildings. But Fisher never acted on that motion, Lindhurst says.

Nuyen, 70, tells *Legal Times* he is being unfairly targeted, since he says he no longer owns any D.C. buildings.

"The government still want to get me. I don't know why," Nuyen says. "I'm out completely [of the rental business]. It's too much of a headache."

Nuyen wrote a self-published book, *The Tao of Real Estate*, while in prison. He says he has retired to his native Vietnam but must keep returning to the District because of his court cases. Nuyen also is being sued by tenants over an allegedly sham condo conversion at two other Northwest buildings.

Nuyen claims all the housing violations at 9th and Gallatin streets have been fixed, but a visit to the buildings last week by a reporter and a photographer for *Legal Times* revealed roach and mice infestations, broken door locks, faulty plumbing, and broken windows.

"The tenants just resist to pay rent. That's why they sue. Right now everything is in good shape," Nuyen says. "The tenants just mess up the building, and we just keep fixing. We spend a lot of money to fix; that's what I understand."

REFORMING THE SYSTEM

As the former director of the D.C. Office of Neighborhood Services, Canavan says he was a critic of the DCRA before his appointment in January 2005 to head the department. He now has a monumental job to reform a department with a reputation for its unwieldy bureaucracy and cozy relationship with developers and building owners.

Canavan says he has three DCRA employees reviewing records in an effort to collect the more than \$8.8 million owed in the 22,000 unpaid violation cases cited in the D.C. Office of the Inspector General report.

"It's my intent that we should collect every dollar that is owed to the District and the taxpayers that we can collect," Canavan says.

In an examination of cases from 1999 to 2003, the inspector general's office found the DCRA rarely issued liens over uncollected fines and lost hundreds of thousands of dollars in unpaid fines when those properties were sold.

Last year the DCRA created a process for tracking and monitoring housing-code violations under a new Office of Civil Infractions. If fines are not paid, a lien can be issued against the property through the Office of Administrative Hearings. If the lien isn't paid, it can be converted to a real estate tax, which ultimately could result in a tax sale of the property if the owner still refuses to pay.

The DCRA also is targeting the relatively small group of landlords with repeat violations, including inspecting 1,700 buildings this year where there were repeat violations, Canavan says.

"These are all works in progress," Canavan says. "The work is not done, and it's not going to be done for a while, but I think we've made great progress in the year we've been here."

The D.C. Council also created the Office of Tenant Advocate in the DCRA to aid tenants who have disputes with landlords or the DCRA. Chief tenant advocate Johanna Shreve did not return phone calls seeking comment.

D.C. Attorney General Robert Spagnoletti, who announced his resignation last week to join D.C. firm Schertler & Onorato as a partner, says housing-violation cases are a priority, even though his office has filed criminal cases against only four landlords since 2001.

"You need to look at it in total and not just the number of filings that have been done," Spagnoletti says.

Both Spagnoletti and Canavan say the threat of legal action often is enough to obtain compliance from recalcitrant landlords. The Attorney General's Office has sent nine abatement letters this year to property owners for housing violations, resulting in compliance from eight and a motion for contempt against the one holdout, says office spokeswoman Traci Hughes.

Housing-violation cases are "very complicated cases to prove," and prosecutors may not have the information they need for a conviction, depending upon the quality of the investigation, Spagnoletti says.

As chairman of the D.C. Council's Committee on Consumer and Regulatory Affairs, Graham has led efforts on rent-control reform, tightening condo-conversion laws, and other tenants' rights issues. He believes the DCRA has improved its housing inspections under Canavan. Nevertheless, Graham says, "we've probably seen very little change" in reinspections for repeat offenders or the collection of fines. The Attorney General's Office also should be "far more aggressive" in its prosecution of slumlords, he adds.

"This is not an economic conflict to be worked out; this is a crime," Graham says.

For Molina, Buruca, and the other tenants of the 9th and Gallatin buildings, the intricacies of housing law are not their first concern. They just want a safe and sanitary place to live. For now, it is a hope that still eludes them.

"The poor and the immigrants are the ones who work the most and suffer the most," Buruca says. "The laws don't do anything for the poor, only the rich. It's a big injustice."

Brendan Smith can be contacted at blsmith@alm.com.