

INSIGHT



Dear Members, during these unprecedented times, we thank you for your continued support. Please enjoy this digital newsletter.

HOME in the Time of Coronavirus: Adapting and Serving

By Steven Haagsma

These are unprecedented, trying times for everyone. Thousands of Americans have lost their lives, many thousands more have been sick and hospitalized, and millions have lost their jobs. Even those who are healthy and financially secure have made sacrifices to protect those around them. Everyone has been affected in some way by this pandemic.

At a time like this, when we are directed by political leaders and public health officials to stay at home, that word—home—takes on a new meaning. It is no longer just the place we come back to after a day of work or school; it now contains nearly our entire lives. Many people are fortunate to have a home that can function as a refuge from the uncertainty and fear brought by a pandemic and a recession, but not all have that blessing. For many people, the virus itself is not what scares them the most. How can someone worry about an invisible, unknown threat when faced with visible, clear, and immediate risks like being unable to make rent, having to find a new home without an income, or being stuck inside with an abusive partner or parent 24/7? The number of people facing these types of immediate threats is large and growing, both in WNY and elsewhere, and is exactly why HOME's services remain necessary.

Fortunately, HOME's staff is able to continue working during this time to assist clients via phone and email. As it became clear in March that Covid-19 outbreak would be significantly disruptive to life in WNY, HOME developed a plan to ensure that there would be no interruption in the availability of our services to clients in need of them. Working from home, staff are still able to access files, email, and phones to keep up with the work needed to continue defending people's rights in housing.

Among the housing issues facing people now, two stand out. One problem is immediate, and the other a tidal wave that will crash down on the rental market in New York after emergency provisions are lifted. Among the emergency measures taken by Governor Cuomo during the pandemic is an eviction moratorium: all eviction proceedings are stopped from mid-March to mid-August. No courts in the state are hearing eviction cases and eviction orders will not be carried out until the emergency order expires. This is an important and necessary step to protect people and allow them to stay in their homes, but it does not solve a pernicious problem: landlords illegally evicting tenants.

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As of last summer, forcing a tenant out by changing the locks, removing their belongings, or telling a tenant that repairs won't be made is a misdemeanor offense statewide, and landlords found guilty of illegal evictions are faced with a criminal charge as well as a civil penalty of between \$1,000 and \$10,000. Despite this provision, HOME has received reports of people coming home to find the locks changed and their belongings on the side of the road, or being told by their landlords that they should just find a new place to live because repairs aren't going to be made. At the best of times, this is traumatic and wrong, but now these illegal evictions also place people at increased risk of contracting Covid-19. While most landlords would never dream of treating a tenant this way, there are those who need to learn the hard way that it is completely unacceptable.

THE SECOND PROBLEM FACING RENTERS

will manifest as soon as the eviction moratorium is lifted: unpaid rent. With millions newly losing their jobs in the past month, renters around the country find themselves unable to make rent. With the first of another month coming up, many people will find themselves two or three months behind on rent. While renters in New York can't be evicted now, no provisions are in place to protect all the renters behind on rent in mid-August when evictions resume. The consequences for renters, courts, landlords, and the rental market are unknown but seem likely to be enormous and harmful in both the short and long term. Apartment List, an online housing search website, conducted a survey and found that a quarter of renters

nationwide were unable to make their whole rent payment in April, and half of those made no payment at all—numbers that increased for May. Less than

half of renters said they were "very" or "extremely" confident that they could continue to afford their current housing if stay-at-home orders remained in place until the end of June, and only a quarter of those who were unable to make April's rent said the same. If half of renters are behind on rent when the eviction moratorium is lifted, we are in for a housing crisis of unprecedented scale.

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THE SITUATION IS DIRE, WHICH IS WHY HOME'S SERVICES REMAIN SO IMPORTANT.

We are here to help and advise people who are scared or uncertain about their housing situation—both tenants and landlords. While we are disappointed that we've had to cancel many events, including our Annual Dinner (originally scheduled for May 1) and numerous events for Fair Housing Month (which has taken on a new meaning), we are thankful that our core services have been largely uninterrupted. As long as fair housing violations persist, we pledge to do our best to support victims of discrimination and other illegal practices, and to help well-meaning landlords follow the law. In the time of coronavirus, that means staff working from home to answer calls and emails. We hope to be able to serve people in person again eventually, but until then we must continue doing our part to stop the spread of coronavirus. We appreciate the continued support of our members, which goes a long way to help us serve those who need us. Stay healthy.



HOME Among Recipients of Statewide Enforcement Funding

The past year has been full of steps toward fair housing in New York State, the most recent of which is the announcement of \$4.5 million in funding of fair housing enforcement activities by six non-profit organizations around the state, including HOME. The funding is for a program called Eliminating Barriers to Housing in New York (EBHNY), which will run for two years as a pilot program seeking to step up enforcement of fair housing laws statewide.

The office of the NY Attorney General secured the funds and funding partner Enterprise Community Partners will oversee the program. "HOME applauds the efforts of the New York State Office of the Attorney General to enforce housing choice and remove impediments to fair housing in our communities," said DeAnna Eason, HOME's Executive Director. The funding will allow HOME is increase its enforcement efforts in WNY and increase the number of clients HOME is able to serve.

HOME's Reading Corner

By Chris Allaire

HOME's Reading Corner is intended to give our supporters a summary of the significant books, articles, and academic studies on housing in our region and nationally. This section will hopefully help contextualize the current struggle for fair housing in our region and illustrate the long history of community involvement in this critical civil rights issue.

Matthew Desmond, Nathan Wilmers. "Do the Poor Pay More for Housing? Exploitation, Profit, and Risk in Rental Markets." *American Journal of Sociology*. Vol. 124, No. 4. January 2019.

It seems paradoxical that those with the fewest resources would pay the most for housing, but that is the critical point of analysis in the study that we will review for this issue's article. The central question of this article does not solely focus on if the poor pay more for housing, but how landlords profit from renting to low-income Americans.

The study we will be looking at was written by an expert in the field of housing, Matthew Desmond, who is a Princeton Professor of Sociology and author of the bestselling *Evicted: Poverty and Profit in the American City*, and Nathan Wilmers, a Professor at MIT whose research focuses on wage inequities. These authors look to studies on inequalities in labor markets, including labor exploitation, to frame their analysis of the current low-income rental market. They combine this framework with a primary study of the contemporary rental market in Milwaukee, Wisconsin. Overall, this study reveals two important functions of the low-income rental market in the United States: that those who have the least to pay for housing often pay the most and that landlords extract much more revenue from low-income rental units than high income units.

The first key finding of this study is that low-income Americans pay both a higher portion of their overall income on housing and that they pay much higher rents in relation to the value of a property than middle income and high income renters.

In their study of Milwaukee, which mirrors national data that was also used in their analysis, Desmond and Wilmers found that: "Rental units in neighborhoods with less than 15% poverty rates have exploitation rates of 10%. But in high-poverty neighborhoods, those with 50%-60% poverty rates, exploitation more than doubles as annual rents amount to 25% of property values. A substantial shift also appears between black and non-black neighborhoods: a 10%-15% median exploitation rate in minority black neighborhoods as compared to a 20%-25% rate in majority-black neighborhoods."

Low-income tenants often pay rents that are only a small percentage lower than rents for middle income tenants. However, they live in properties that have significantly lower property value. In this way, these low-income tenants are paying a much higher portion of the value of the property in rent than other renters. Additionally, Desmond and Wilmers note what many of us already know about low-income renters, that "most poor renting families receive no housing assistance and reside in the private rental market, where over half spend at least 50% of their income on housing costs and a quarter spend over 70% on them." Desmond and Wilmer find through this analysis that low-income renters are taking on additional costs in rents because of the "risk" that they pose as low-income renters.

The other significant finding in this study is that landlords who rent properties in low-income areas to low-income tenants make more per unit on their rental properties than landlords who rent to middle- and high-income renters. This seems paradoxical, but is easy to display. Property values in low-income neighborhoods are significantly lower than in middle- and high-income neighborhoods, but each unit in low-income neighborhoods rents for only a small percentage less than in middle income neighborhoods. As a result of how rents function in low-income neighborhoods, Desmond and Wilmer conclude that: "Landlords in poor neighborhoods also extract higher profits from housing units. Property values and tax burdens are considerably lower in depressed residential areas, but rents are not. Because landlords operating in poor communities face more risks, they hedge their position by raising rents on all tenants, carrying the weight of social structure into price. Since losses are rare, landlords typically realize surplus risk charge as higher profits."

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The authors consistently find that properties in low-income areas, which are often racially segregated and are areas of concentrated poverty, yield higher profits for landlords even when accounting for factors like maintenance and turnover costs. Landlords in low-income neighborhoods often own more properties than their counterparts in middle income neighborhoods and own their properties outright, increasing their per unit profits as compared to landlords with mortgages. All of these factors combine to make renting properties in low-income neighborhoods profitable for landlords, while making rental units cost more for tenants.

While Desmond and Wilmer conducted research in Milwaukee, it is clear that the same processes occur in the Buffalo rental market as well. Partnership for the Public Good found that the median 2-bedroom rent in the 14213 ZIP code, on the West Side, was within \$50 of that for 14216, in North Buffalo. A quick look at Zillow listings reveals that home values in 14216 are regularly twice those of 14213, making the latter area much more profitable for landlords. While this is just one example, it makes clear that what Desmond and Wilmer found in Milwaukee takes place in Buffalo as well. These findings are important to remember as we continue to fight inequality in the WNY housing market.

Welcome to Emily Gillig, HOME's new Operations Coordinator

In January HOME welcomed our newest staff member, Emily Gillig. Emily answered some questions to let members know a bit about her.

What did you do before you came to HOME?

A vast majority of my career has been spent in education and training. For several years I mentored at-risk high school students in the city of Buffalo, working with them towards a goal of graduation and post-secondary plans of college or career tracks. Most recently, I provided vocational training to adults preparing to enter or re-enter the workforce, and advised them through the application and interview process. Having worked primarily at non-profit agencies, several of my positions were those in which team members wear several different hats, a dynamic that I love for its teaching value.

Why are you interested in fair housing and social justice issues?

My passion revolves around ensuring all community members have equal access to basic resources to achieve their version of success, whether it is housing, education, or any number of other means. Throughout high school and college I pursued social justice on a global scale by getting involved with Amnesty International, which was eye-opening to say the least. As an adult, I look to make my difference on a local level and help my Buffalo neighbors.

What excites you about working for HOME?

The mission, the team, and the immense community impact all drove me to this agency and excite me moving forward. HOME is such a uniquely important



asset to the Buffalo community, delivering key services to those who would otherwise be left to fend for themselves. The team here displays incredible dedication to the mission on both a large scale as well as a smaller, client-by-client basis.

What hobbies or interests do you have outside of work?

I spend an absurd amount of time trying to make my six-month-old nephew laugh, often to no avail. I also spend a lot of my time with my adult-sized family members, as well as friends, who also don't find me funny in the least. I can frequently be found at trivia night, at the movies, and telling people I really need to get back into going to the gym instead of actually going. Road trips, especially to see my two-year-old nephew, whose dynamite dance moves make ME laugh, are my favorite way to spend a long weekend.

Highlighting Familial Status Discrimination in Western New York

By Dan Corbitt, Esq.

Despite major fair housing victories in recent years, such as passage of the Erie County Fair Housing Law and amendments to the New York State Human Rights Law to prohibit discrimination based on a person's lawful source of income and gender identity, daunting barriers to housing choice persist throughout Western New York. Familial status discrimination is one of the barriers, and it continues to harm everyone in our community by denying opportunities and fueling social and economic inequality.

Discrimination based on familial status refers to the negative treatment of families and individuals with children under the age of eighteen, women who are pregnant, or people who are in the process of securing legal custody of a child under eighteen, including foster parents or a family that is in the process of adoption. Discrimination includes outright denials of housing as well as imposing any special requirements or conditions on tenants with children, such as requiring that families with kids rent first floor units, or enacting special rules that children cannot use common areas.

HOME's recent enforcement efforts illustrate the challenges that tenants with children continue to face while trying to find a place to live.

HOME was recently alerted to an advertisement on Craigslist for a two-bedroom apartment renting for \$800 a month in the University Heights neighborhood, which stated, "Perfect for University at Buffalo Students!" Under fair housing laws, it is unlawful to publish an advertisement that indicates a preference for or against a particular type of tenant, including familial status. Instead, providers should describe the housing and its amenities and allow prospective residents to determine what is best for their needs. Here, the ad clearly expressed a preference for college-age tenants, discouraging families with young children from applying.

HOME decided to investigate the housing provider to determine whether families with children would be afforded an equal opportunity to rent the apartment. The experiences of the testers revealed discriminatory practices that are both dismaying and more common than most would imagine.

One of HOME's testers contacted the housing provider and disclosed that she was a college student and a single mother. In response, the housing provider told the tester that the street where the apartment was located was busy, loud, and unsafe. He stated that she would not be comfortable there. Despite the deterrence, the tester still requested to view the apartment, but the housing provider remained uncooperative and stated that he would need to call her later to schedule a viewing. However, the housing provider never called the tester back or responded to her repeated calls and text messages. Other testers posing as the parents of young children had similar interactions with the housing provider and never had an opportunity to rent the apartment. In contrast, testers presenting as college students without children were never told that the area was loud or unsafe, and promptly received applications and tours of the advertised unit as well as others owned and managed by the housing provider. HOME forwarded the results of the investigation to the New York State Division of Human Rights, which found probable cause to believe that unlawful discrimination occurred. The case is now pending in New York State Supreme Court.

Another issue often comes up in the context of familial status discrimination: overly restrictive occupancy rules. This can be a complex issue, because while fair housing laws allow reasonable
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Client Success Story: Brian

By Steve Dalton



Brian contacted HOME as he was looking for security deposit assistance for the new property he was going to move into. Unfortunately, Brian learned that HOME currently does not have any financial funding for assistance with security deposits, but we explained to Brian what his options were regarding security deposits for his new landlord. HOME informed Brian about the Security Agreement from Erie County Department of Social Services. While no money is exchanged to the landlord for a security deposit, the agreement serves as a security deposit of sorts that allows the landlord to potentially recoup costs of any damages to the apartment once Brian moves out in the future by allowing the Erie County Department of Social Services to send an inspector out to examine the damage in the apartment to see if it is credible and not just caused by normal wear and tear. If deemed credible, DSS will pay for the damages. We told Brian that this security agreement is considered a lawful source of income under Erie County fair housing law and that if his landlord denied the agreement, it would be considered Source of Income Discrimination. Brian was then able to successfully negotiate the use of this security agreement with his new landlord and move into his new home.

Client Story: Rachel

By Nichelle Brown

Rachel is a tenant who contacted HOME after her landlord informed her that he would like to show her apartment to potential buyers. Rachel has some health issues and considers herself a high-risk person for contracting COVID-19 due to her health conditions. Rachel did not want strangers in her home looking around her apartment while her immune system is compromised. HOME advised her to make her landlord aware of her health conditions and request some alternative viewings temporarily and encouraged Rachel to call 911 if she and the landlord do not agree on alternative viewings and the landlord tries to force showings of the apartment. We explained to Rachel that her health and safety come first.

Thank you to all of our supporters as we navigate this difficult time. We sincerely appreciate your continued support. Whatever the rest of 2020 holds as we continue to endure this pandemic, HOME will continue to make every effort to make WNY a more equitable region.

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occupancy standards, people's living arrangements greatly vary and not all housing units are the same. Consequently, there is no simple bright-line rule for determining what is a reasonable restriction. Instead, housing providers must consider several factors when establishing these restrictions, including local building codes, the configuration and square footage of the unit and its sleeping areas, the ages of the occupants, structural limitations such as sewer and septic systems, and more.

Many housing providers have come to rely on the industry standard of "two person per bedroom" as a reasonable occupancy limit. This standard was established many years ago by the U.S. Department of Housing and Urban Development (HUD), which stated that while the two persons per bedroom standard is generally reasonable, it is not a hard and fast rule, and the factors listed above must also be considered.

Another recent investigation by HOME illustrates how unreasonable occupancy restrictions discriminate against families with children. A HOME staff member found an advertisement on Zillow for a 1,200 square-foot two-bedroom apartment in the Elmwood Village that rented for \$1,100 per month. The ad stated that the apartment was "perfect for couples." Again, housing providers cannot advertise in a way that indicates a preference with regard to a person's familial status or any other protected characteristic.

HOME investigated, and a tester posing as a married mother of a young child was denied by the housing provider, who told the tester that the apartment had a maximum occupancy of two people. The housing provider claimed that the apartment could not accommodate

more people because it did not have adequate laundry facilities, which is not a valid reason to limit occupancy. Conversely, the tester posing as a married retiree without young children was urged to immediately submit an application and offered a discount on the rent. The results of the investigation were reported to HUD, which found probable cause to believe that the housing provider was discriminating against prospective tenants based on their familial status through the use of an unreasonable occupancy restriction. The case will proceed to a formal hearing in the coming months.

Familial status discrimination has been prohibited for several decades, but it remains a persistent problem. In 2019, HOME received and investigated nearly 30 reported incidents of familial discrimination in WNY. While this number is unacceptably high, it only represents a fraction of the overall problem, since many people who encounter discrimination do not report the incident because they fear retaliation, do not know the conduct is unlawful, or are unaware of how to report the incident. By some estimations, as many as 90% of discrimination incidents go unreported. If you or someone you know has been treated unfairly because of their familial status or any other reason, please contact HOME today. Our services are free and your information will be kept strictly confidential. Together, we can work to end housing discrimination and ensure everyone an equal opportunity to live in the housing and communities of their choice!

