SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

SUNDEEP SINGH SUCHDEV, LUCAS SHAPIRO, SHRUTI PAREKH, JESSICA TURNER, LILI SALMERON, and SANJEEVAN THARMARATAM Plaintiffs, – against – JUDITH GRUNBAUM, MOSHE DEUTSCH, SAMUEL GRUNBAUM, and YHT MANANGEMENT INC. Defendants.	:	Index No.

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND APPLICATION FOR A TEMPORARY RESTRAINING ORDER

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Plaintiffs Sundeep Singh Suchdev ("Singh"), Lucas Shapiro ("Shapiro"), Shruti Parekh ("Parekh"), Jessica Turner ("Turner"), Lili Salmeron ("Salmeron"), and Sanjeevan Tharmaratnam ("Tharmaratnam"), (collectively, "Plaintiffs") respectfully submit this *Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction and Application for a Temporary Restraining Order* pursuant to CPLR § 6301 and § 6311 seeking injunctive relief specified therein against Defendants Judith Grunbaum, Moshe Deutsche, Samuel Grunbaum, and YHT Management Inc. and their agents ("Defendants"). The Plaintiffs seek preliminary injunctive relief and a temporary restraining order pending a hearing in order to preserve the status quo and prevent irreparable injury, loss or damage.

STATEMENT OF FACTS

1. History of the House

Since the 1970s, 70 South Elliott, Brooklyn, NY 11217 (the "House"), located in Fort Greene, Brooklyn, has been home to low-income and working-class tenants. Laid out like a traditional Brooklyn brownstone, the House contains at least six bedrooms and several communal spaces, including: a living room; a kitchen; a garden level bathtub with no toilet; a main level toilet with no bathing facility; and full bathrooms on the second and third floors. *See* Affidavit of Lucas Shapiro ("Shapiro Aff.") at ¶ 18 & Affidavit of Sundeep Singh Suchdev ("Singh Aff.") at ¶ 10. The House has six residents. The six residents each have their own bedroom but share the communal spaces. Due to the layout of the House, some residents do not have bathroom facilities near their bedrooms and therefore must use toilet facilities located on another floor. Before 2014, the House was registered on the New York City Department of Housing Preservation and Development ("HPD") website as a mix of Class A and Class B dwelling, meaning that the City has long recognized the property to have an unusual layout with features of both a Single Room Occupancy

("SRO") and a typical apartment. Annexed as **Exhibit A** is a copy of the HPD Multiple Dwelling Registration for the House.

In 2011, upon the death of the former-owner, Arthur Gassner, Melvin Berg, Mr. Gassner's business partner and the executor of his estate informed the tenants of the estate's intention to sell the House to the highest bidder. Anticipating a sale to an investor who might seek greater profit by displacing them, the tenants made a Request for Administrative Determination to the New York State Division of Homes and Community Renewal ("DHCR") to have the House declared a rent-stabilized SRO on March 10, 2014.

Defendant Judith Grunbaum purchased the House, on or about September 3, 2015. Approximately two months after purchasing the House, Ms. Grunbaum sent each tenant a notice of "Intent to Commence an Action or Proceeding Based on Owner's Personal Use and Occupancy". At the time, under Rent Stabilization Code § 2524, an owner could evict tenants from rent regulated apartments in which she and/or immediate family members planned to personally reside. Believing that Ms. Grunbaum did not have a good-faith intention of living at the House, tenants retained possession and sought legal counsel to defend their pending evictions.

In anticipation of DHCR's decision in the tenants' favor, in a Petition dated March 17, 2016, Ms. Grunbaum commenced holdover proceedings against all then-residents in Kings County Housing Court. In the Petition, Ms. Grunbaum conceded that the House was subject to rent stabilization and defended their tenancies in housing court.

On November 10, 2017, DHCR ruled that the House consisted of at least six (6) or more rent-stabilized SROs and set the rent for each room at between $270.00 and $300.00 per month. Annexed as **Exhibit E** is a copy of the DHCR's Order dated November 10, 2017.

In 2018, Plaintiffs Singh, Shapiro, Parekh and other tenants at the time commenced HP Actions against Ms. Grunbaum to compel much-needed repairs. The matter was ultimately settled

by agreement June 4, 2018. Due to the poor conditions at the premises, however, HPD placed the House into the Alternative Enforcement Program ("AEP"), a program for New York City's most dilapidated buildings that same year. Annexed as **Exhibit H** is a list of buildings placed into AEP in 2018. Being placed into AEP subjects a property to intermittent HPD inspection intended to monitor its compliance with building and housing codes.

In June 2019, New York State enacted the Housing Stability and Tenant Protection Act ("HSPTA"). The HSPTA amended state rent laws, imposing strict limitations on the Owner's Use exception to the rent stabilization laws. On March 16, 2020, Chief Administrative Judge Lawrence Marks issued Administrative Order ("AO") 68/20, suspending non-emergency court proceedings and indefinitely staying evictions in the State of New York due to the COVID-19 pandemic. Annexed as **Exhibit K** is a copy of AO 68/20. Then, on June 10, 2020, the Honorable Thomas M. Fitzpatrick of Kings County Housing Court dismissed the Defendant Judith Grunbaum's HSTPA claim. Annexed as **Exhibit J** is a copy of Judge Fitzpatrick's decision.

With these developments, Ms. Grunbaum's attempts to legally evict the Plaintiffs became non-viable. When the COVID-19 pandemic hit New York City causing most of the Plaintiffs to quarantine in their home nearly all day, Ms. Grunbaum and her agents changed her strategy, instead waging a campaign of harassment and discrimination against Plaintiffs in order to get them to vacate the House.

2. Defendants' Harassment During the COVID-19 Pandemic

Without any ability to legally evict Plaintiffs through legal channels, Ms. Grunbaum began to send her son, Defendant Samuel Grunbaum to the House. Maintaining that no notice was required to enter, Mr. Grunbaum would let himself into the House, interrupt Plaintiffs' day, verbally harass them, interfere with their use of the space through various means of surveillance and create an

unsafe environment by giving access to the House to unknown persons and ignoring regulations and guidelines for personal protection during the pandemic such as wearing personal protective equipment ("PPE") and practicing social distancing.

On March 16, 2020— the very day that Governor Cuomo declared an emergency and evictions were suspended—Mr. Grunbaum entered the House without providing any notice to Plaintiffs. During that visit, he let himself in with a key, walked around the House proclaiming he was "owner" and took extensive video of the premises. During that visit, Mr. Grunbaum did not wear a mask. He informed the Plaintiffs that he had entered the House before, but no Plaintiffs had been at home. *See* Shapiro Aff. at ¶ 9-10. While he was at the House, Mr. Grunbaum had a heated conversation with Plaintiff Shapiro about an alleged HPD violation, complaining that "somebody brought HPD here," and threatened to throw away Plaintiffs' personal belongings if they remained anywhere in the common hallways. *See* Shapiro Aff. at ¶ 9-10.

When Mr. Shapiro asked Mr. Grunbaum to provide notice before agents entered the House, Mr. Grunbaum refused stating: "anything in the common area is mine just as yours. I can come in whenever I want. I can walk in the common area. This is like a public corridor in an apartment building. I don't have to notify anyone I am coming, and we will not notify anyone we are coming" or words to that effect. *See* Shapiro Aff. at ¶ 9-10.

Mr. Grunbaum, true to his word, returned to the House multiple times during the height of the pandemic in New York, without providing notice to the Plaintiffs. Mr. Grunbaum, or his agents, entered the House using the Defendants' keys without notice or identifying any purpose for his visits on or about April 17, 2020, April 29, 2020, April 30, 2020 and May 5, 2020. *See* Shapiro Aff. at ¶11-14.

On April 30, 2020, men came to the House, claiming to be workers from HPD. The men showed no City identification, wore no uniform, and did not appear to actually be agents of HPD.

The men worked on the boiler room door and left. Upon information and belief, the "City workers" were agents of Defendants. *See* Shapiro Aff. at ¶ 13. That day, Plaintiff Singh wrote an email to Ms. Grunbaum and Defendant YHT Management Inc. stating that the tenants knew their rights and respectfully requested notice before the Defendants, or their agents, came to the House. Annexed as **Exhibit L** is a copy of that email to Defendants.

On May 5, 2020, Plaintiff Shapiro, speaking for the tenants, again asked Mr. Grunbaum to provide notice prior to his visits. Mr. Grunbaum refused, stating, "this is not going to change. I am going to come whenever I want." He also stated he was not threatening anyone but then threatened that belongings left on the steps would be thrown away and brought up in future court proceedings and were grounds for eviction. *See* Shapiro Aff. at ¶ 14.

After these visits, through counsel, Plaintiffs alerted Defendants of their concerns about these unannounced visits, particularly in light of the COVID-19 pandemic. Annexed as **Exhibit M** is an email exchange date May 6, 2020 between the Plaintiffs' former lawyer and Defendants' former lawyer.

On June 8, 2020 at 2:22pm, several Plaintiffs received an email from an agent of Defendant YHT Management Inc. stating that workers would arrive the next morning to do "minor work." Plaintiffs asked if the workers would wear masks and asked Defendant YHT Management Inc. to describe the nature of the work. Plaintiffs received no response to their questions. Annexed as **Exhibit N** is a copy of this email exchange.

On June 9, 2020, Mr. Grunbaum arrived with a crew of workers at around 8:30am and entered the House with his key, unannounced. Over the course of the day between six (6) and ten (10) workers came to the House. They did not identify themselves to the Plaintiffs but appeared to be from multiple companies. The workers did not wear PPE at all times, and one worker ate lunch in the living room with no mask on, without the Plaintiffs' consent. *See* Shapiro Aff. at ¶ 16.

During the day, the workers drilled holes through five (5) levels of the inside of the property to install surveillance cameras. The work was loud and disruptive. *See* Shapiro Aff. at ¶ 16-17; **Exhibit M**. Also, at about 11:40am on June 9, 2020, Mr. Grunbaum and several agents attempted to enter Plaintiff Jessica Turner's room (Rear/Garden Level) by force, yelling and pushing the door. *See* Turner Aff. ¶ 11-13. On that day, Ms. Turner did not come out to the common space for eight (8) hours, not even to use the restroom. *See* Turner Aff. ¶ 11-13; Shapiro Aff. at ¶16.

Two days later, on June 11, 2020 before 10:00am, Mr. Grunbaum returned to the House and let himself in again without any notice. He brought several workers who attempted to enter Ms. Turner's room by force. The workers remained at the House until nearly 4:30pm. *See* Shapiro Aff. at ¶ 17; Turner Aff. at ¶ 14-15.

Upon information and belief, the cameras have infrared technology to capture images at night or in the dark and can capture views 110 degrees from where they are situated. Upon information and belief, the cameras can be equipped with audio capability. Annexed as **Exhibit O** is a screenshot of the make and model of the cameras Plaintiffs believe were installed at the House.

Plaintiffs wrote to Defendant YHT Management Inc. describing their objections to the internal surveillance cameras. They noted that there had never been any safety issues at the building, that they were concerned about their privacy given that access to the shared bathrooms were visible to the cameras and that the surveillance felt like another form of harassment. Defendants wrote back: "one of the main reasons we installed a Camera system is to protect our self's (sic.) from this kind of frivolous allegations (sic.)" *See* **Exhibit N** at pg. 2. Defendants provided no other explanation for the cameras.

On June 12, 2020, the next day, at around 10:30am, an unmarked van arrived at the House. Mr. Grunbaum and the men from the unmarked van banged on the Garden Level entrance door for approximately ninety (90) minutes before departing. Plaintiffs received no notice from Defendants

prior to this visit. *See* Shapiro Aff. at ¶ 17; Turner Aff. at ¶ 16. Mr. Grunbaum did not provide a reason for his intrusion or for the incessant knocking.

During another unannounced visit from Mr. Grunbaum, this one on August 30, 2020, Plaintiff Singh witnessed Mr. Grunbaum taking photos of the Plaintiffs' mail. When Mr. Singh asked what he was doing, Mr. Grunbaum stated, "investigating." *See* Singh Aff. at ¶ 20-22. Mr. Grunbaum stated, "This space is our space. It's not a free for all. We own this house. This space is our space," or words to that effect. He stated that Mr. Singh could have no guests in the house and could not "play" with the cameras. While stating he was "not here to threaten anyone," Mr. Grunbaum threatened to hold Mr. Singh "legally liable" for anyone moving into the space or even visiting. He continued, "it's definitely a civil violation and it could be a criminal violation…That's why I am coming here. I will keep on coming until I find out what's going on." He said this is "legal grounds to go all the way." *See* Singh Aff. at ¶ 21.

As promised, Mr. Grunbaum visited the House nearly daily that next week. *See* Singh Aff. at ¶ 32; Shapiro Aff. at ¶ 26; Parekh Aff. at ¶ 31. Mr. Grunbaum and/or another agent of Defendants visited the House nearly daily between August 27, 2020 and September 8, 2020. *See* Singh Aff. at ¶ 32; Shapiro Aff. at ¶ 26; Parekh Aff. at ¶ 31. On or about June 11, 2020, June 12, 2020, June 14, 2020, June 16, 2020, June 22, 2020, July 5, 2020, August 27, 2020, August 30, 2020, August 31, 2020, September 2, 2020, September 3, 2020, September 4, 2020, September 8, 2020, and September 15, 2020, Mr. Grunbaum and/or another agent of Defendants returned to the House without notice. *See* Shapiro Aff. at ¶17 & ¶26; Singh Aff. at 32; Parekh Aff. at ¶ 31.

3. First Illegal Lock Out

Plaintiff Parekh first moved into the House in 2015. *See* Parekh Aff. at ¶ 3. In 2016, she moved into the Second Room/Front. *See* Parekh Aff. at ¶ 6a. In or around September 2018, she

began attending graduate school out of state but maintained a primary nexus to her rent stabilized unit, Second Floor/Front at the House. *See* Parekh Aff. at ¶ 7. Ms. Parekh intended to return to the House at the end of her semester. However, due to the COVID-19 pandemic, she could not travel back to New York City. *See* Parekh Aff. at ¶ 7.

Prior to the COVID-19, a house guest visited Plaintiff Shapiro. Due to state of emergency declared on March 16, 2020, Mr. Shapiro's guest extended her stay and quarantined at the House with the consent of all Plaintiffs. For convenience and upon the consent of Ms. Parekh, the guest slept in Ms. Parekh's room, borrowing her furniture. *See* Shapiro Aff. at ¶ 20; Parekh Aff. at ¶ 18-20. On August 10, 2020, Ms. Parekh returned to the House. Because she is in a romantic relationship with Plaintiff Singh, she slept in his room while the guest remained in her room. On September 1, 2020, the guest left the House because she was able to secure alternative accommodations. Defendants viewed the guest's departure with luggage on video and, on September 2, 2020, used that as an opportunity to lock Ms. Parekh's room with her furniture and other belongings inside. *See* Parekh Aff. at ¶ 17.

On September 2, 2020, Mr. Grunbaum and a worker appeared at the House with no notice and went up the steps to the second floor. At the time of the visit, Ms. Parekh was in her room working and went downstairs to see why workers had come to the House. Mr. Grunbaum and his agents then came through the House's front door, went up the steps, and entered Ms. Parekh's room without her consent. Mr. Grunbaum, physically intimidating and pushing past Ms. Parekh, instructed the worker to forcibly lock Ms. Parekh's room with a padlock. Mr. Grunbaum did not even bother to turn off the lights. *See* Parekh Aff. ¶ 12-15; Shapiro Aff. at ¶ 21; Singh at Aff. at ¶ 24. Annexed as **Exhibit P** is the sign Defendants left on Ms. Parekh's room on September 2, 2020.

While he was locking Ms. Parekh out of her room, Mr. Grunbaum falsely accused Plaintiff Singh, a Sikh man, of assaulting Defendant Judith Grunbaum, an elderly white woman. Mr.

Grunbaum gave no other details other than the alleged incident occurred "last year." *See* Singh Aff. at ¶ 23; Parekh Aff. at ¶16.

On September 8, 2020, "Max", a purported agent of Defendants, entered the House without the Plaintiffs' consent, unlocked the door to Ms. Parekh's room and began taking photos and videos of her personal belongings, including opening her personal drawers. He then re-locked the room but agreed to shut the light off. *See* Parekh Aff. at; ¶ 21; Singh Aff. ¶ 28. Deeply concerned by this severe intrusion of Ms. Parekh's privacy and the hardships she incurred being forcibly removed from her personal belongings, Plaintiffs asked legal counsel to intervene on their behalf. Despite discussions between Plaintiffs' counsel and Defendants' counsel, Defendants refused to open Ms. Parekh's room.

Plaintiffs discovered a Summons and Complaint dated September 1, 2020 asking that Kings County Supreme Court declare who, if anyone, has rights to Ms. Parekh's room (2nd Floor/Front aka Room 3/Front). The Complaint dated September 1, 2020 admits that Ms. Parekh "continues to assert rights to Room 3 Front." Annexed as **Exhibit Q** is a copy of the September 1, 2020 Complaint (Index No. 516206/2020). Upon information and belief, Defendants never served this Summons and Complaint on any party and, after discussions with Plaintiffs' counsel in this matter, discontinued the case, alleging it was filed "in error."

Finally, on September 11, 2020, Plaintiffs contacted the New York Police Department ("NYPD") and an officer from their NYPD local 88th precinct advised them they could clip the lock. Accordingly, at around 4:30pm, the NYPD officer stood guard while the lock was clipped by Plaintiffs. Plaintiffs lived in fear that Defendants or their agents will come back to lock Ms. Parekh's room or another Plaintiff's room. Indeed, Plaintiffs fear came true a few days later. *See* Parekh Aff. at ¶ 24.

4. Second Illegal Lock Out

Only four days after the NYPD intervened and helped restore possession of the room to Ms. Parekh, on September 15, 2020 at approximately 7:00pm, a man previously unknown to Plaintiffs entered the House unannounced to attempt to lock Ms. Parekh's room again. The man did not identify himself by name and the Plaintiffs did not recognize him. The man wore a red shirt, a baseball cap and had a pony tail. The Plaintiffs called 911 to report the attempted lock out. *See* Shapiro Aff. at ¶ 23.

Upon information and belief, the unknown man contacted Mr. Grunbaum, who arrived at the House after the police arrived. Another man wearing a yarmulke also arrived and paced outside the House, but never entered. Upon information and belief, this man was also an agent of Defendants. A third agent of Defendants arrived as well. Plaintiffs also did not recognize this man. This man appeared to be of Latino descent.

For more than an hour nearly a dozen people—officers, Plaintiffs, Defendant Samuel Grunbaum, and Defendants' agents—argued in Ms. Parekh's room. Plaintiffs requested multiple times that, due to the COVID-19 pandemic, the discussion move outside. *See* Shapiro Aff. at ¶ 23-27; Parekh at ¶ 25-30; Singh at ¶ 29-31.

As the dispute escalated, the officers responding contacted a supervisor, Lieutenant Leone. Lt. Leone instructed Mr. Grunbaum and his agents to cease trying to lock the room and cautioned that if they returned to lock the room, they could be arrested. *See* Singh Aff. at ¶ 29; Parekh Aff. at ¶ 28; Shapiro Aff. at ¶ 25.

The police departed around 8:30pm, but Mr. Grunbaum instructed the two male agents described above, to remain behind and wait outside the House. They loitered outside the House until approximately 9:30pm, causing Plaintiffs to feel extremely anxious that Defendants would

attempt further intrusions or confrontations. When the men left, they told Plaintiff Shapiro they would be back. *See* Shapiro Aff. at ¶ 25.

Upon information and belief, Mr. Grunbaum returned to the House on September 29, 2020 in the morning and, upon finding an inner door lock engaged, threatened to forcibly and violently knock down the front door. He used that opportunity to serve various Plaintiffs termination notices.

ARGUMENT

PLAINTIFFS ARE ENTITLED TO A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION TO AVOID FURTHER HARM

This Court should grant Plaintiffs motion seeking a temporary restraining order and preliminary injunction.

Pursuant to CPLR § 6301 and § 6313(a), a temporary restraining order should be granted pending the hearing for a preliminary injunction when it appears that the plaintiff will be injured by the defendants "commission of or continuance of an act" unless the defendant is restrained. Under New York law, to obtain a preliminary injunction, movants must establish (1) a likelihood of success on the merits of their claims; (2) risk of irreparable injury absent the granting of a preliminary injunction; and (3) that a balance of the equities tips in the their favor. See *Aetna Ins. Co. v. Capasso*, 552 N.Y.S.2d 918, 919 (1990); *Doe v. Axelrod*, 73 N.Y.2d 748, 750, 532 N.E.2d 1272 (1988); *McVay v. Wing*, 303 A.D.2d 727, 758 N.Y.S.2d 88 (2d Dep't 2003).

Where the movants have satisfied all three prongs, the existence of a factual dispute will not bar injunctive relief "if it is necessary to preserve the status quo and the party to be enjoined will suffer no great hardship as a result of its issuance." See *Melvin v. Union College*, 600 N.Y.S.2d 141, 142 (2d Dep't 1993); CPLR § 6301. "The purpose of a preliminary injunction is to maintain the status quo, not to determine the ultimate rights of the parties." See *Wheaton/TMW Fourth Ave., LP v. New York City Dep't of Bldgs*., 65 A.D.3d 1051, 1052, 886 N.Y.S.2d 41, 42 (2009). As

explained further below, the Plaintiffs satisfy each of the three prongs and are therefore entitled to injunctive relief.

1. Plaintiffs Are Likely to Prevail on the Merits of the Complaint

In the context of a preliminary injunction, the movants do not need to demonstrate that they are certain to prevail on the merits of their claims, but rather only need to make a *prima facie* showing of success. See *Parkmed Co. v. Pro-Life Counselling, Inc*., 91 A.D.2d 551, 553 (1st Dep't 1982). Given the egregiousness of Defendants' conduct, and for the reasons set out more fully below, Plaintiffs easily meet this burden. But even if the Plaintiffs could not prove such, this Court should still grant the Plaintiffs' request for injunctive relief given the health and safety concerns arising from Defendants' conduct. Due to the COVID-19 pandemic and Defendants' constant visits, the bodily safety of Plaintiffs has been put at risk. "The ultimate relief may be rendered inadequate, as the loss of one life would render permanent injunctive relief, granted at a later date, ineffective. The proof required for a finding of the likelihood of success on the merits is reduced" *Doe v. Dinkins*, 192 A.D.2d 270, 275, 600 N.Y.S.2d 939, 943 (1993).

The claims alleged in the Summons and Complaint are as follows:

a. Defendants harass Plaintiffs in a manner calculated to cause them to vacate their rent stabilized home.

The Administrative Code of the City of New York, Housing Maintenance Code ("NYC Admin Code") § 27-2005(d) "protects residential tenants from harassment by building owners," and was created "to address a perceived effort by landlords to empty rent-regulated apartments by harassing tenants into giving up their occupancy rights ...." *Aguaiza v. Vantage Props* 69 A.D.3d 422, 423, 893 NYS2d 19 (1st Dept 2010). The NYC Admin Code, Section 27–2004[a][48] defines "harassment" as:

> any act or omission by or on behalf of an owner that (i) causes or is intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, and
>
> (ii) includes one or more of the following: (a) the use or threatened use of force; (b) repeated interruption or discontinuance of essential services; (c) failing to comply with a HPD issued vacate order; (d) commencing repeated baseless or frivolous court proceedings against the tenant; (e) removing the tenants's possessions; (f) removing the entrance door to the tenant's apartment, or removing, plugging or disabling the lock to such entrance door, or changing the lock on such entrance door without supplying the tenant a new key; or (g) other repeated acts or omissions of such significance as to substantially interfere with or disturb the tenant's comfort, repose, peace or quiet and that causes or is intended to cause the tenant to vacate or surrender or waive any rights in relation to such occupancy.

The Housing Maintenance Code further entitles tenants to seek an order from a court restraining an owner from engaging in such conduct, and to impose civil penalties payable to the New York City Commissioner of Finance. *See* NYC Admin. Code § 27-2115(m)(2); 226-228 E. 26th St. LLC v. Rhodes, 2008 NY Misc. LEXIS 7516 (Civ. Ct. NY Co. 2008); 13 E. 9th St. LLC v. Seelig, 63 Misc. 3d 1218(A), 114 N.Y.S.3d 817 (N.Y. Civ. Ct. 2019).

Defendants have twice attempted to lock Plaintiff Parekh out of her room and entered and surveilled her room and possessions on multiple occasions without her permission. Defendants and their agents have repeatedly made unannounced visits and engaged in multiple acts of surveillance in the common areas and private rooms at the House in violation of NYC Admin Code § 25-101, requiring reasonable notice prior to inspection. They have tampered with Defendants' mail and possessions. Defendants and their agents have threatened and intimidated Plaintiffs, all with the intent to cause Plaintiffs to vacate or surrender their rights to occupancy. Courts have held that these and similar actions by landlords constitute harassment. See *Leprovost v. Pitts*, 46 Misc. 3d

1216(A), 9 N.Y.S.3d 593 (N.Y. Civ. Ct. 2015); *Dani Lake LLC v. Torre*s, 64 Misc. 3d 1231(A), 117 N.Y.S.3d 805 (N.Y. Civ. Ct. 2019).

b. Defendants' lockout of Plaintiff Parekh was illegal

Defendants illegally locked out Plaintiff Parekh from her lawful occupancy of her room at the House, violating Real Property Actions and Proceedings Law ("RPAPL") § 711, 713, and NYC Admin Code § 26-521 / RPAPL § 768.[1]

Pursuant to RPAPL § 711, any tenant of a room in a rooming house in possession for thirty consecutive days or longer may not be removed except in a special proceeding. RPAPL § 768, section 1 further provides that:

> 1. (a) It shall be unlawful for any person to evict or attempt to evict an occupant of a dwelling unit who has lawfully occupied the dwelling unit for thirty consecutive days or longer or who has entered into a lease with respect to such dwelling except to the extent permitted by law pursuant to a warrant of eviction or other order of a court of competent jurisdiction or a governmental vacate order by:
>
> (i) using or threatening the use of force to induce the occupant to vacate the dwelling unit; or
>
> (ii) engaging in a course of conduct which interferes with or is intended to interfere with or disturb the comfort, repose, peace or quiet of such occupant in the use or occupancy of the dwelling unit, to induce the occupant to vacate the dwelling unit including, but not limited to, the interruption or discontinuance of essential services; or
>
> (iii) engaging or threatening to engage in any other conduct which prevents or is intended to prevent such occupant from the lawful occupancy of such dwelling unit or to induce the occupant to vacate the dwelling unit including, but not limited to, removing the occupant's possessions from the dwelling unit, removing the door at the entrance to the dwelling unit; removing, plugging or otherwise rendering the lock on such entrance door inoperable, or changing the lock on such entrance door without supplying the occupant with a key.

[1] N.Y.C. Admin Code § 26-521 and RPAPL § 768 are identical and referred to by the appropriate RPAPL designation below.

> (b) It shall be unlawful for an owner of a dwelling unit to fail to take all reasonable and necessary action to restore to occupancy an occupant of a dwelling unit who either vacates, has been removed from or is otherwise prevented from occupying a dwelling unit as the result of any of the acts or omissions prescribed in paragraph (a) of this subdivision and to provide to such occupant a dwelling unit within such dwelling suitable for occupancy, after being requested to do so by such occupant or the representative of such occupant, if such owner either committed such unlawful acts or omissions or knew or had reason to know of such unlawful acts or omissions, or if such acts or omissions occurred within seven days prior to such request.

Each Plaintiff is a tenant and/or lawful occupant of the House, each in possession for 30 days or longer, including Ms. Parekh. Ms. Parekh was peaceably in possession of her room in the House and was then excluded from possession by unlawful means, i.e., without a special proceeding. Ms. Parekh cannot be removed from possession except by a special proceeding. Defendants' two separate attempts to illegally lock Plaintiff Parekh out of her room without a special proceeding or court order violates RPAPL § 711.

Defendants lockouts also constitute illegal evictions of Ms. Parekh under RPAPL § 768. Defendants forcibly removed Ms. Parekh from her room in order to lock the door and evict her against her will. Defendants engaged in a course of conduct that interfered with or was intended to interfere with or disturb the comfort, repose, peace or quiet of Ms. Parekh and her fellow tenants' use and occupancy of the House, including through continual harassment, surveillance and putting the tenants' safety at risk. They engaged in other conduct which prevented and was intended to prevent Ms. Parekh from the lawful occupancy of her room, including removing Ms. Parekh's possessions from her room and changing the lock on her door without supplying the occupant with a key. Defendants engaged in all of these actions to induce Ms. Parekh and the other tenants and lawful occupants to vacate the House.

Defendants' further violated RPAPL § 768(b) by not immediately restoring Ms. Parekh to her lawful use of her room. During the second lockout attempt, the only reason the Defendants and their agents ceased locking her out was due to the intervention of five (5) NYPD officers and a Lieutenant threatening arrest.

c. Defendants' actions and the action of their agents constitute a private nuisance and deprive Plaintiffs of the right to quiet enjoyment to the House and created dangerous conditions at the House in violation of the warranty of habitability

Under New York law, any person is liable for creating a private nuisance if his or her conduct is a legal cause of the invasion of the interest in the private use and enjoyment of land and such invasion is intentional and unreasonable. See *Copart Indus., Inc. v. Consol. Edison Co. of New York*, 41 N.Y.2d 564, 569, 362 N.E.2d 968, 971 (1977). There is also a covenant "implied into leases that the lessee is entitled to quiet enjoyment of the demised property" *Herbert Paul, CPA, PC v. 370 Lex, L.L.C.*, 794 N.Y.S.2d 869, 750 (2005), citing *Fifth Avenue Bldg. Co. v. Kernochan*, 221 N.Y. 370, 376, 117 N.E. 579 (1917). An actual or constructive eviction from the premises breaches the covenant of quiet enjoyment, and a constructive eviction occurs where "landlord's wrongful acts substantially and materially deprive the tenant of the beneficial use and enjoyment of the premises." See *Barash v. Pennsylvania Terminal Real Estate Corp.*, 26 N.Y.2d 77, 83, 256 N.E.2d 707, 710 (1970); *255 Butler Assocs., LLC v. 255 Butler, LLC*, 173 A.D.3d 655, 657, 102 N.Y.S.3d 699, 701 (2019); *TDS Leasing, LLC v. Tradito*, 148 A.D.3d 1079, 1080, 51 N.Y.S.3d 96, 97 (2017). A breach of the covenant of quiet enjoyment can be predicated upon a partial constructive eviction, where the lessee only gives up part of the premises. See *Herbert Paul, CPA, PC v. 370 Lex, L.L.C.*, 7 Misc. 3d 747, 750, 794 N.Y.S.2d 869, 872 (Sup. Ct. 2005). Real Property Law § 235-b also provides a warranty of habitability in which every residential lease is deemed to have a covenant that the premises are fit for the uses reasonably intended for them and lessees will

not be subject to "any conditions which would be dangerous, hazardous or detrimental to their life, health or safety."

Defendants have created dangerous conditions in the common areas of the House and substantially interfered with Plaintiffs' beneficial use of the space. Defendants have granted more than a dozen persons unknown to Plaintiffs access to the House common areas and even individual rooms without prior notice or cause. They have not required their agents to wear PPE at all times or take other reasonable safety precautions during a global pandemic. Defendants are also surveilling Plaintiffs' mail, their comings and goings, their personal belongings and their use of the common facilities, including the bathroom. Defendants have twice attempted to physically evict Ms. Parekh from her room. Defendants have also forcibly tried to enter Ms. Turner's room by force several times. This conduct has intentionally and unreasonably interfered with Plaintiffs' rights to use their rooms and the common areas of the House, and caused residents to fear for their safety in the House and to abandon their right to use parts of the common areas, for which Defendants are liable both for causing a private nuisance and for breaching the covenant of quiet enjoyment and the warranty of habitability implied by law in the terms of Plaintiffs' occupancy.

d. Defendants' actions and the action of their agents discriminate against Plaintiff Singh as a practicing Sikh and against the female tenants of the House

The New York City Human Rights Law ("NYCHRL"), NYC Admin Code § 8-102 et seq., prohibits an owner, lessor, managing agent or any person with the right to lease a housing accommodation from "discriminating against any such person or persons in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith" on the basis of, among other attributes, creed and sex and/or gender. *See* NYC Admin Code § 8-107(5)(a)(1)(b). The House,

each unit and the common areas are each "housing accommodations" under the NYCHRL. NYC Admin Code §§ 8-102, esq. Generally, in making a claim of disparate treatment, "a plaintiff may either provide direct evidence or show that he was treated differently from similarly situated individuals." See *Hernandez v. City of New York,* No. 18 CIV. 5870 (ER), 2019 WL 2410129, at *6 (S.D.N.Y. June 7, 2019). Importantly, however, both disparate treatment by an owner and disparate impact are discrimination under the NYCHRL. Indeed, an owner discriminates in violation of the NYCHRL when he or she carries out a "policy or practice…or a group of policies or practices…[that] results in a disparate impact to the detriment of any group protected by the provisions of this chapter." NYC Admin Code §§ 8-107(17); 8-402. A claim for disparate impact requires "a facially neutral policy or practice has a disparate impact on a protected group" *Levin v. Yeshiva Univ.,* 96 N.Y.2d 484, 491, 754 N.E.2d 1099, 1102 (2001). Defendants' surveillance activities and unannounced visits have a disparate impact on the ability of Plaintiff Singh, a practicing Sikh, and Plaintiffs Parekh, Turner and Salmeron, identifying as female, to enjoy the comfort and safety of their own home on the basis of creed and sex and/or gender, respectively. Internal surveillance cameras that depict Mr. Singh—a religious Sikh—with his hair down and unwrapped on the way back and forth to the restroom infringe on his free exercise and religious expression. Further, the unnoticed visits caused Mr. Singh to constantly worry about being prepared for visitors and having his hair properly wrapped and covered. **Exhibit R**. (Singh Aff.) at ¶ 12-19. Similarly, the female Plaintiffs are surveilled in trips to the restroom and other House rooms by internal cameras intended to intimidate, embarrass and degrade female Plaintiffs particularly. *See* Turner Aff. at ¶ 22-23.

Defendants also sent many previously unknown male agents to the House and the bedrooms of female Plaintiffs in particular—over a dozen unknown men over the course of pandemic. For example, Defendants sent four or five men to the House to "evict" or lock out Plaintiff Parekh with

no notice on two occasions – physically terrifying experiences, as attested to by Ms. Parekh. *See* Parekh Aff. at ¶ 12-30. After an altercation with multiple police officers, two previously unknown agents remained around the House for another hour or so at Defendants Grunbaum's direction for no ostensible purpose other than to intimidate Ms. Parekh. *See* Parekh Aff. at ¶ 25-30. They have also banged on Plaintiff Turner's door in June 2020 for an extended period with at least three agents trying to enter her individual bedroom. *See* Turner Aff. at ¶ 11-17. Defendants have not targeted male residents in illegal lockouts or target the use of any male resident's individual bedroom. As Ms. Turner attests, "as a woman, I feel harassed, intimidated and discriminated against"; Defendants use the "maleness [of their agents] to intimidate me" *See* Turner Aff. at ¶ 22-23.

Defendants' ongoing conduct, in both treatment and impact, discriminates against certain tenants based on their religion and sex and/or gender in violation of the NYCHRL.

2. Plaintiffs Will Suffer Irreparable Harm Without Injunctive Relief

Under New York law, a plaintiff has suffered an irreparable injury "when it cannot be adequately compensated in damages or there is no set pecuniary standard for the measurement of damages." See *Board of Higher Ed. of City of New York v. Marcus*, 63 Misc. 2d 268, 273, 311 N.Y.S.2d 579, 585 (Sup. Ct. 1970).

Defendants have engaged in egregiously harmful behaviors of at least three types:

(1) Defendants have harassed Plaintiffs, showing up unannounced, uninvited, and invading the living space of residents. This pattern of behavior has become more dangerous during the COVID-19 pandemic, as Defendants or their agents enter the area where Plaintiffs have been quarantining, invite unknown workers or agents to enter, and fail to vigilantly adhere to proper social distancing protocol. The constant threat of contracting a life-threatening disease, coupled with the lack of control over their living (and quarantining) spaces, has caused Plaintiffs emotional

distress and anxiety, and places their health and safety at risk. When Plaintiffs show that safety is at issue, they have shown sufficient threat of irreparable harm. See *Doe v. Dinkins*, 192 A.D.2d 270, 275, 600 N.Y.S.2d 939, 943 (1993). Here Defendants' conduct places Plaintiffs' health at risk, and causes Plaintiffs severe distress and anxiety, neither of which can be adequately compensated with monetary damages.

(2) Defendants have repeatedly attempted to lock Ms. Parekh's room, leaving her without access to her personal belongings or her personal space for extended periods of time and causing her great emotional distress. Defendants have sought to dispossess her of her possessions and her occupancy of her unit without cause, notice, or authority. The ramifications of this behavior, similar to the above, have increased in severity. The pandemic has proven to be unpredictable and incredibly deadly in New York City, and the virus affects individuals very differently. The government stayed evictions for a reason; forcibly removing someone from their living quarters places their health and safety at risk. For that reason, Ms. Parekh, and the other Plaintiffs, have shown that the Defendants' attempts to lock any Plaintiff from their rooms will cause irreparable harm. See *Doe v. Dinkins*, 192 A.D.2d 270, 275, 600 N.Y.S.2d 939, 943 (1993).

(3) Defendants and their agents unreasonably surveille Plaintiffs, their possessions and the House. Plaintiffs installed a camera surveillance system inside House, targeting areas that Plaintiffs need to access for their communal facilities. This system appears to have night vision and audio recording capacity, leading Plaintiffs to believe that they are subject to surveillance any time they are in common living spaces. The House is a brownstone home, not an apartment building with multiple apartments. Plaintiffs are not afforded even the smallest benefit of privacy or courtesy as they use communal facilities such as the kitchen and bathrooms. Defendants have shown that they monitor the video footage and use that knowledge to help them in their harassment campaign. Defendants have also tampered with Plaintiffs' mail and photographed it. They have photographed

Plaintiffs' possessions, in communal areas and in individual rooms. They have posted agents to surveille the interior and exterior of the House, and made many visits for the ostensible purpose of surveilling the property. When Plaintiffs demonstrate that Defendants' surveillance is likely to continue to interfere with their use and enjoyment of the House common areas, they have shown that they will suffer irreparable harm absent injunctive relief. See *Cangemi v. Yeager*, 185 A.D.3d 1397 (N.Y. App. Div. 2020).

For years, the tenants of the House lived in peace, co-existing and cooperating with former owners. Plaintiffs even lived peacefully after the death of the owner for several years before Defendant Judith Grunbaum purchased the House. Because Defendants refuse to end their dangerous and disruptive harassment of Plaintiffs, Plaintiffs now live in a constant state of alert, dreading the next attempted lock out, aggressive confrontation, or unannounced intrusion. Given the additional social and hygienic precautions required during the COVID-19 pandemic, Plaintiffs fear contracting the virus from Mr. Grunbaum, or one of the strangers he brings into the Plaintiffs' home. Through their frequent and uninvited intrusions, constant surveillance, and attempts to forcefully evict Plaintiffs and dispossess them of their property, Defendants have intentionally harmed the Plaintiffs and this harm will continue without injunctive relief.

3. The Balancing of Equities Favors Plaintiffs

The equities in this case clearly tip in favor of the Plaintiffs. Plaintiffs can demonstrate the equities tip in their favor when they show that they will suffer greater harm if the court fails to grant the preliminary injunction than the defendant will suffer if the injunction is granted. See *Washington Deluxe Bus, Inc. v Sharmash Bus Corp*., 47 A.D.3d 806, 807 (2d Dept 2008). As explained above, in absence of injunctive relief, the Plaintiffs' health and safety will be at risk; they will be subject to harassment, hostile advances, and constant surveillance, bearing a constant

nuisance and losing quiet enjoyment of their personal residence. Defendants cannot show a comparable harm if injunctive relief is granted. If the Court grants the Plaintiffs' requested relief, Defendants will be enjoined from arbitrarily harassing the Plaintiffs, entering the House without notice, bringing in uninvited agents, locking Plaintiffs out of their rooms, or surveilling the Plaintiffs inside their living space. Defendants retain their rights as owners but are simply required to treat the Plaintiffs with dignity, respect, and civility in the middle of a global pandemic.

CONCLUSION

Plaintiffs respectfully request that the Court enter an order enjoining Defendants and/or their principals, agents, servants, representatives, employees and associates from:

A. Entering the House if not for the purpose of repairs that are immediately necessary to prevent damage to property or to prevent injury to persons.

B. Entering the House after 5:00 PM (NYC Time) or on weekends unless for the purpose of repairs that are immediately necessary to prevent damage to property or to prevent injury to persons.

C. Enjoining Defendant Samuel Grunbaum from coming within 50 feet of the House.

D. Removing, evicting, or attempting to remove or evict any Plaintiff from their current dwelling unit at the House without a Court order enforced by a New York City Marshall.

E. Harassing in any way any Plaintiff by any of the following conduct:

   i. engaging in or threatening to engage in any conduct which interferes with or is intended to prevent such Plaintiff from the lawful occupancy of their dwelling unit at the House;

ii. interfering with or disturbing the comfort, repose, peace or quiet of such Plaintiff in the use and occupancy of such dwelling unit;

iii. inducing the Plaintiffs to vacate the dwelling unit including by, but not limited to, threatening Plaintiffs with eviction, physical harm, criminal action, or other unlawful actions;

iv. discontinuing or reducing essential services at the House;

v. removing the possessions of any of the Plaintiffs or lawful occupants or guests; or removing or changing locks to any entrance door to the House or dwelling units therein without providing a new lock and key; and/or

vi. commencing baseless eviction proceedings.

F. Retaliating in any way against the Plaintiffs for exercising any of their rights under New York's housing laws (such as by bringing the instant complaint) and/or participating in activities of a tenant association, including by commencing baseless or frivolous proceeding against Plaintiffs.

G. Removing any of Plaintiffs' property from their dwelling units or shared common areas at the House unless such Plaintiff has been duly evicted pursuant to a court order.

H. Communicating in any way with Plaintiffs concerning this action or any allegations herein outside the presence of counsel or by written communications;

I. Surveilling Plaintiffs in the interior portions of the House, including by using technology that records audio or video recordings; and

J. Granting such further relief that is just and proper.

Dated: New York, New York
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