

## **BEHIND A STOLID FACADE, THE WHOLE NATION'S CRISIS**

The recent transfers of one building in Bushwick occurred without heed to any notions of fiscal responsibility. Yet its residents live in the real world, where caretaking and stability are needed. > *By Joe Walker*

Built in 1931 in the midst of the Great Depression, 1328 Gates Avenue is a six-unit rental apartment building in the Bushwick section of Brooklyn. It has seen the streetscape grow and change, prosperity ebb and flow, and generations come and go. It survived the Second World War, the blackout and riots of 1977, and the crack epidemic of the 1980s. It took the housing boom of the 2000s to nearly destroy it.

Unremarkable from the outside, a passer-by would have no reason to look twice at the modest structure with a red brick facade. Yet the travails of this one building and its handful of hardy residents encapsulate the rowdy, often ruinous, excesses of this decade's real estate market in New York City.

"It really got ugly before the bubble burst because people were looking at Bushwick as a natural resource," a commodity to be exploited, said David Bryan, the managing attorney at Brooklyn Legal Services Corporation A, who has represented the tenants of 1328 in court.

By the time Bryan visited [the building](#) in 2007, it had accrued 361 violations from the city's Department of Housing Preservation and Development (HPD). He says he was shocked by the tenants' living conditions: "It was just awful. There were vermin, mold, and a hole in one of the walls that went straight through to the hallway."

Until a court-appointed administrator was named to care for the building in March, the residents of 1328 were passengers on a ship without a captain. With landlords that refused to make lasting repairs, the tenants lived for five years under a leaky, porous roof, with mold on their walls and ceilings, mice in their bedrooms, roaches in their kitchens, and poisonous lead-based paint on their walls. The locks on the front door were busted; drug users would creep into the building to get off in the basement.

"I had so much mold in my bedroom that it was black, looking at me, talking to me, moving," said Socorro Medina, 49, who has lived on the third floor for 13 years.

It was never a palace, but 1328 had been decent affordable housing for some of Bushwick's low-income residents for decades, having come under rent stabilization in 1984. Tenants say that changed in 2003 when a man named Kharl Pinnock, at age 25, bought the building for half a million dollars. With a good credit score and no collateral, Pinnock was given a six-figure mortgage and became the landlord of a multi-family apartment building.

"Mortgages were different back then, they just wanted you to sign your name," Pinnock said recently.

"I wasn't prepared for the responsibility."

Pinnock says that a friend from a mortgage company approached him about buying 1328, but neglected to tell him that the property was rent-stabilized, a crucial distinction for a real estate investor that means that the tenants have a legal right to renew their leases each year or two years at no more than a certain percent of increase, as determined by the city's Rent Guidelines Board. More than a third of the rental housing stock in Bushwick is rent-regulated.

The rents Pinnock received were just enough to cover the loan he had taken on the property. But his neglect of the building's maintenance soon cost him his mortgage payments. Under the leadership of Socorro Medina—"the headache from the third floor," Pinnock calls her—the tenants began withholding rent when repairs went undone. Pinnock says that he couldn't afford to make repairs when the rents he received were so low, and that some tenants failed to pay their rent at all.

They also bombarded 311 with complaints about the unsafe living conditions. If it was so bad, Pinnock thought, why couldn't they just move out? "I guess she wants to die in that building," he said of Medina, who won a judgment of \$125,000 against Pinnock for an injury she received when a window fell and crashed on her head.

## Material misrepresentations

After the bank foreclosed in 2005, “I never ever went back there. I walked away like a dog with its tail between its legs,” says Pinnock.

According to the bank that ended up holding Pinnock's mortgage, he never should have been given a loan at all.

Lehman Brothers, the now-failed investment bank, took a controlling stake in one of the country's largest originators of subprime mortgages, Aurora Loan Services, in 2003. Lehman bundled the mortgages into securities and sold them to investors.

Aurora had a “loan purchase agreement” with Pinnock's friend's brokerage firm, D&M Financial Corporation, to buy the loans D&M issued in the booming tri-state area real estate market.

It was D&M that approved Khari Pinnock's purchase of the Gates Avenue building in 2003. In December 2004, Aurora sued D&M for fraud, claiming that Pinnock, among 27 others, had received a mortgage on the basis of “false and misleading documentation” provided by D&M.

Later, in the spring of 2006, an internal audit of Aurora's books found that up to half of the loans inspected contained “material misrepresentations,” or fraud, according to a [report](#) in The Globe and Mail of Toronto. Aurora had originated \$25 billion in loans that year.

More than one-third of Bushwick's rental units are under some sort of rent regulation, and as the neighborhood's gentrification accelerated in this decade, speculators have had a financial incentive to force tenants out, sometimes through neglect and intimidation.

*(For much more on the neighborhood, see the new issue of City Limits Investigates, [11237](#).)*

Bushwick had a rate of 193 serious housing code violations per 1,000 units in 2007, 8.5 times the rate in the nearby Williamsburg and Greenpoint sections of Brooklyn. The neighborhood has held the dubious distinction of being number one in visits from housing inspectors almost every year in the 2000s, according to the Furman Center for Real Estate and Urban Policy at NYU.

## Changing hands

With 1328 now in the hands of Lehman, the tenants were left to fend for themselves. Sometimes the city came to deliver gas during the freezing winters, other times Socorro Medina and the rest would pool their money for fuel to heat their homes, and sometimes they just went without.

“It used to be very cold, the kids always had a cold, and would get sick,” said Sonia Crespo, a second-floor resident for nine years. To heat the apartment, Crespo said, “I had to warm up the stove.”

The city periodically hired contractors to make emergency repairs but lacked the budget or legal authority to make systemic renovations.

In August 2006, unknown to the tenants or the city agencies that helped pay some of the tenants' rent, some of whom received public assistance to help pay their rent, Aurora sold the building to a company called Narcarta Holding Corp. for \$397,000. The next month, Narcarta sold the building to Beverly Britton for \$790,000.

“This Beverly Britton person just came out of nowhere,” said Judy Medina, Socorro's daughter, who lives on the second floor with her son. “We never seen her, we don't know about her, we don't know anything about this lady, they just gave us court papers talking about they're gonna kick us out of the building.”

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The eviction notices appeared to be printed on computer paper and looked unofficial, so a suspicious Socorro – which, aptly enough, means “help” in Spanish – brought it to others for review. She went to see Father John Powis, the retired Monsignor of St. Barbara's Church, and Sister Kathy Maire, who together were running a bare-bones tenant advocacy group called the Bushwick Housing Independence Project. Powis, in turn, called attorney David Bryan at his office down the street, who took up the case pro bono.

The mysterious Beverly Britton “never had it in mind that she was going to renovate this building and become a good landlord. The building fell into horrible disrepair consequently,” Bryan argued during the housing court proceedings. Though he suspected it, Bryan couldn't prove that Britton wasn't the actual owner of the building.

The lawyer representing Britton in court, Seth Denenberg, had filed non-payment actions against four of 1328's tenants. Britton's name was on the lawsuits, but she had not hired Denenberg.

Narcarta—the entity on record as having sold 1328 to Britton—hired a downtown Brooklyn real estate management firm to manage 1328. It was that firm, Away Realty, that brought in Denenberg to file action against

the tenants for non-payment. He claimed that each of them owed tens of thousands of dollars in rent dating back to the Khari Pinnock days.

What Bryan couldn't know was that the person behind Seth Denenberg and Beverly Britton was a Trinidadian con artist named Osmond Decoteau, the owner of Narcarta. Neither Decoteau's or Narcarta's names appeared on the motions filed against the tenants. Instead it was Britton's, the straw buyer.

Decoteau is now in federal custody, having been accused of stealing more than \$20 million in a mortgage fraud scheme where he bought properties and re-sold them to himself under different names, taking out over-priced mortgages each time and pocketing the cash. The federal [indictment](#) sketches a decade-long mortgage fraud scheme that may have preyed on up to 80 properties in Brooklyn and Florida.

### **Rampant fraud**

Mortgage fraud has been rampant in Brooklyn in recent years, says Richard Farrell, the top attorney in the new mortgage fraud division of the Brooklyn District Attorney's office. It was created in March through a \$875,000 grant from U.S. Sen. Charles Schumer.

"It's massive and we're drowning," Farrell says of the scope of fraud in the borough.

The majority of the fraud was committed on single-family houses, says Farrell, not rent-stabilized apartment buildings like 1328.

The real estate market is a wild west, with no one regulatory body maintaining careful oversight. Last December, the Daily News successfully stole the Empire State Building, and put its triumph on the [front page](#), a testament to the fact that the city checks for clerical errors, but not whether the deal makes sense.

Usually, the only time the city rejects a deed filing is when a check for the real estate transfer taxes isn't enclosed. The city collects taxes every time a piece of property is sold within the five boroughs. Transfer tax revenue grew at an annual pace of 25 percent from 2001 through 2007, when the city received an all-time high of \$3.3 billion from the real estate market. The Independent Budget Office [expected](#) that source of revenue to be cut almost in half in 2009, a major blow to the city's tax base.

Farrell was consulted by the Daily News reporter, and recalls saying: "I don't think you can do that." The veteran prosecutor was shocked when he saw the headline.

"I had faith in the recording office that they'd know certain buildings," says Farrell. "I recommended doing a less famous building, like Bloomberg's townhouse."

### **Gaining allies**

Bryan reached an out-of-court agreement with Denenberg that stipulated that the tenants would pay their back rent upon Britton's completion of building repairs. Socorro remembers that a few people came by to repair, shoddily, some of the hazards, but soon stopped showing up.

"We started seeing a situation where this was petering out," Bryan recalled. "Since we hadn't given them the power to evict and we started feeling that they were disappearing, the case kind of languished. But we started hearing about the involvement of Father Powis and other entities."

Throughout the legal proceedings, Father Powis and Sister Maire had stayed in contact with the city's Department of Housing Preservation and Development about 1328 and its horrid living conditions. HPD and its commissioner, Shaun Donovan, knew of and admired the work that BHIP did in the neighborhood.

Soon a powerful official, HPD Deputy Commissioner for Enforcement and Neighborhood Services Vito Mustaciuolo, became an ally of 1328.

"We would call him one o'clock in the morning: 'Uh, Vito, we have no hot water.' He would send his guy over," Medina recalled. "If there was any major leaks from the roof or anything, he would send his guy over. He would come over here 10, 11 o'clock at night to check up on us. C'mon, that's the way a community works together, understand?"

### **Case in point**

In November 2007, HPD identified the 200 [worst buildings](#) in the city, 17.5 percent of which were in Bushwick, though the neighborhood accounts for only one percent of the city's population. Under new powers granted to it by the City Council, HPD gave the owners of the buildings on the list four months to bring their buildings up to code or have HPD do the repairs itself and charge the expenses and fines to the owner. 1328 was on the list and became the poster child for the city's new [Alternative Enforcement Program](#).

Last fall, HPD spent nearly \$300,000 on repairs at 1328 that included “roof replacement, hot water replacement, flooring, painting, replacement of apartment entrance doors, replacement of the domestic water supply and the waste lines,” according to HPD spokesman Seth Donlin.

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On Dec. 1, 2008, some of New York’s political heavyweights—including City Council Speaker Christine Quinn, and Shaun Donovan, then-HPD commissioner and soon-to-be Secretary of Housing in the Obama administration—held a press conference in front of 1328.

Standing next to Socorro Medina, Quinn and Donovan touted the building’s revitalization as a testament to their commitment to enforcing the housing code and punishing recalcitrant landlords.

### **Breathing room – then foreclosure**

As the repairs were made over those fall months, as Decoteau was being prosecuted by the feds, and Shaun Donovan was on a leave of absence campaigning for Barack Obama, a young attorney named Vance Gathing in Bryan’s office began to sever the responsibility for 1328 from Beverly Britton and Narcarta.

Under [Article 7A](#) of New York state property law, tenants can petition the court to appoint a third party to take over the building when living conditions become extremely dire or the landlord has abandoned the building.

By last March, a housing court judge issued the 7A appointment letter, and a few weeks later, the residents of 1328 met their new landlord, who would now be collecting rent, taking a 5 percent fee for himself and putting the rest toward the upkeep of the building.

Peter Nakos, a respected real estate manager in Brooklyn, the 7A administrator, stood at the foot of the recently painted staircase where eight of his new tenants, two to a step, sat and listened.

“When a 7A administrator runs the building, no else does,” Nakos said. “If someone else comes and says they own the building, call 911.”

“We did that already,” Judy Medina, sitting on a middle rung of stairs, piped up. “We chased them out.”

“First call is to 911, and second is to my office,” Nakos insisted.

Like old war buddies, the tenants of 1328 laughed and talked about the strangers who had come into their building over the past several years, asking for months of back rent, handing out unofficial eviction notices, and, at least once, offering thousands of dollars in cash to move out.

That night, though, Nakos was there to talk about the future. “The problems didn’t happen overnight, please don’t expect me to solve them overnight,” Nakos said.

Nakos told the tenants things they didn’t need to be told: Get along with each other. Take pride in your building. No loud parties on the weeknights.

“When one of us has a party, we’re all having a party,” Judy Medina said later, laughing at what Nakos didn’t know, that the tenants at 1328 had lived together, suffered together, and relied on one another long before the New York City Housing Court appointed him to be their building’s de facto landlord.

“We would mop, sweep, take out the garbage, make sure the front is clean,” Judy says of the last six years. “That’s why when everybody started coming to the building, they’re like, ‘Oh, we need you to work together, and we looked at them, like, ‘Hello, we’re family.’ We all love each other.”

But after six relatively calm months with Nakos as her landlord, Socorro Medina suddenly received a foreclosure motion in the mail this month. A company called Novastar Mortgage, Inc. had come into possession of the note and initiated foreclosure proceedings against the building’s owner of record, Beverly Britton. A total of \$982,738 is owed on the mortgage, not to mention close to \$350,000 in liens against the building from HPD’s renovations.

Novastar will attempt to auction 1328 off, but the \$1.3 million that is owed—nearly three times the market value of \$476,000, as determined by the city’s department of finance—could make it a tough sell, depending on how much of a loss the bank is willing to incur.

Any new owner will have to go to housing court and convince the judge that he or she intends to be a legitimate steward of the building to get the 7A order lifted. Either way, the tenants are protected under the rent stabilization law no matter who controls their building. Still, it is a new chapter of uncertainty for the tenants who had just begun to enjoy a measure of stability.

Even so, Socorro Medina, a Brooklyn native, says she doesn’t fear what comes next. “I don’t know if you believe in God ... I know I do,” she said last week. “And it gives me the strength to move on through the good, the bad,

and the ugly. And—I tell you—I been through the good, the bad, and the ugly in Bushwick. I don't give up.”

- Joe Walker