

## Ruling favors art tenant in Soho eviction dispute

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By Elizabeth O'Brien



*Downtown Express file photo by Lorenzo Ciniglio*

Robert Seidman, center, with his wife Patii, left, and their daughter Anna, earlier this year.

A Soho family won its fight against eviction last month when a judge enforced an often-overlooked city zoning law stating that only working artists can legally occupy designated live-work quarters in Soho and Noho.

In their 25 years at 577 Broadway, Robert Seidman and his family watched as their neighborhood turned from a gritty manufacturing area to a high-end retail destination. Seidman is a fiction and documentary writer certified as an artist by the city's Department of Consumer Affairs.

The landlord of 577 Broadway brought a suit against the Seidmans, the last rent-stabilized tenants in the building, on the grounds that he wanted to give their fifth-floor apartment to his brother and nephew. But the court found that state rent laws could not permit the landlord to bypass the city zoning rule stating at least one member of households occupying joint-live work lofts in Soho or Noho must be a city-certified artist.

“By and large, people ignore it, but it is a law and it’s still enforceable,” said Paul Gulielmetti of Gulielmetti & Gesmer, the attorneys representing the Seidmans.

Gulielmetti said that to the best of his knowledge the case represents the first time that a judge has used that particular city zoning law to prevent eviction; previously, he said, it had been used to evict tenants who were not certified artists.

Soho community leaders cheered the Sept. 19 ruling of Judge Cyril K. Bedford as a victory in their struggle to preserve the artistic character of Soho amid the encroachments of new luxury apartments and non-artist residents.

“The courts have affirmed the opinion of the Soho community, which for years has said that there was an active artist population in Soho,” said Sean Sweeney, director of the Soho Alliance, a civic group.

Sweeney said he knew offhand of several artists who pay a fraction of the market-rate price to rent large lofts. The Seidmans pay \$761 per month for their 1,800-sq.-ft. apartment, which would fetch at least \$5,000 per month at market rates, Sweeney said. Seidman shares the loft with his wife, Patti, and their two children, ages 20 and 25.

The attorney for Reuben Schwartz, the landlord, has taken the first steps towards appealing the decision, Gulielmetti said, adding that an appeal must be filed within nine months.

Margaret Baisley, a Soho-based real estate lawyer, filed a friend-of-the-court brief on behalf of Schwartz. She said that most people in Soho agree that the special zoning for artists doesn’t reflect the current neighborhood reality and should be abolished.

“In what city, in what area would you not be able to give your brother the apartment that you own?” Baisley said. “Only in Soho.”

Reuben Schwartz lives in Israel and was not available for comment. His brother, who he wants to give the apartment to, Steve Schwartz, the managing agent of 577 Broadway, once ran Uncle Steve’s electronics on Canal St. A friend of Steve Schwartz returned a phone call placed to his office on Tuesday, saying that Steve Schwartz had traveled to Israel since he lost friends and family members in the recent suicide bombing. The friend declined to give her name.

Seidman said that he is guardedly optimistic about the judge’s decision.

“Just like a ballplayer, I don’t want to get elated yet, because the game isn’t over,” Seidman said.

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