How Freddie Mac Helps Private Equity Profit From Tenant Misery

Overloaded with debt, with maintenance and repairs cut back to the bone, tenants are being bled dry to make millions for speculators—with a crucial assist from the Federal Home Loan Mortgage Corporation.

By Eileen Markey

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Illustration by Josh Gosfield.

Mr. Julius Bennett, 86, stately in a long coat and fedora, walked dutifully into a courtroom on the third floor of the Bronx County Housing Court. He and a knot of stubborn neighbors had repeated this ritual several times in a snail-like series of hearings, attempting to use the court to compel their landlord to make repairs. Their case file was thick with notices of housing code violations and affidavits attesting to everything from roach and rodent infestations to buckling floors, busted plumbing, and lead paint in their apartments. Now tenants in two buildings—which house scores of families a few blocks north of Yankee Stadium—were on a rent strike, refusing to pay another dollar until conditions improved.

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Their lawyer, Mark Taylor, of Bronx Legal Services, argued that the judge should impose damages and find the landlord in contempt for failing to make court ordered repairs. An attorney for the city's housing department testified via Zoom that the landlord's intransigence was putting tenants at risk. The landlord's lawyer argued that he was doing his best, that the tenants were making mountains out of molehills. In this scuff-marked room, the state—hemmed in by statutes and the municipal code—attempts to sort out the failures of New York's housing market.

But for Bennett and his neighbors at 1230 Woodycrest Avenue, the fight extends far beyond a single negligent landlord. They are defending their homes as places to live rather than vehicles for speculation. Their landlord is Emerald Equity Group, a private equity fund—or, it turns out, an entity begot and assigned by Emerald—the latest in a long line of slumlords extracting profit from misery. In recent years, the shape and manner of these landlords has changed, and not just in New York and other big cities. The latest slumlord business model is to accrue mountains of debt on multifamily housing, betting that ever-increasing sales prices will allow the owners to flip the buildings before the debt catches up to them. The arrangement depends on owners spending next to nothing on maintenance, leaving tenants living in substandard and often dangerous conditions. This is, perhaps, the logic of for-profit housing.

But the reality is that these practices are enabled by the public in the form of the Federal Home Loan Mortgage Corporation, or Freddie Mac, which the federal government relies on to expand—not destroy—the supply of affordable housing by purchasing mortgages on the secondary market. Because Freddie Mac continues to purchase these lopsided mortgages, lenders who might otherwise question such low operating expenses or high loan values continue to lend, collecting fees and interest. While reforms undertaken after the 2008 financial crisis mean that Freddie Mac is exposed to far less risk than it once was, Freddie and its sibling, Fannie Mae, continue to play an outsize role in the secondary market. A spokesman for Freddie Mac said the government-sponsored enterprise (GSE) plays an essential role creating liquidity in the affordable housing market, and referred to one of the loan initiatives Emerald has benefited from. "The Small Balance Loan Program provides financing for smaller rental properties that tend to be older, hard to finance and economically infeasible to build. Freddie Mac helps preserve these properties as vitally needed sources of affordable housing, particularly in high-cost metros. Since 2016, we have financed 550,000 units, of which 95 percent are affordable to families earning at or below the area median income." Freddie's investments are consistently valued as high-quality by rating agencies, and its Multifamily Seller/Servicer Guide articulates strict underwriting standards.

Their day in court: Julius Bennett (left) and his fellow tenants from 1230 Woodycrest Avenue outside Bronx Housing Court in April 2023. (Eileen Markey)

But thanks to stagnating housing sales, high heating oil costs, and rising insurance premiums, this game of hot potato may be coming to an end. Which would leave tenants—and local governments—holding the potato.

The story of Emerald Equity and the Bronx buildings it has bought and sold in recent years is instructive. In 2016, Emerald purchased 38 buildings from Jerome Associates, a firm that had amassed its portfolio during the 1990s. Emerald paid $140 million for the buildings, many of which had once been on the city's delinquent tax rolls and were rescued from 1970s-era abandonment by public intervention (and taxpayer-subsidized renovation). Emerald's shopping spree was financed in part by Harbor Group International, which describes itself as "a leading global real estate investment and management firm, with $20 billion in real estate investment properties." Harbor's portfolio includes 58,000 multifamily units all over the country. Apparently, these 100-year-old brick walk-ups in hardscrabble Bronx neighborhoods looked so profitable that the company—which bought the CBS Building in midtown Manhattan in October 2021 with $558 million in financing, and whose investments range from retail space in London to condos in Florida—couldn't resist.

Among the properties that Emerald bought in 2016 was 311 East 193rd Street. Its sale price of $2.3 million was $2 million over the $305,000 the city's tax office estimated as the 11-unit building's market value. Emerald paid $3.7 million for 2650 Marion Avenue, a few blocks away, a building the city estimated might fetch $744,000. And next door at 2654 Marion, it paid $3.9 million for a building the city estimated was worth $718,000. Emerald bought Bennett's building and five others on nearby blocks in a separate transaction in 2017. The city's market estimate is supposed to indicate "what a reasonable buyer would pay," explained Martha Stark, a former commissioner of the NYC Department of Finance. The assessed value—which determines a building's property tax—is even lower. Though the market value set by the Department of Finance often lags below the sale price, Stark said, the yawning gap between those estimates and the size of the mortgages Emerald took out—and Freddie Mac eventually purchased—suggests overleveraging.

"Isn't that what led to some of the banking uproar in the past?" Stark noted. "It's almost impossible for them to both repay the mortgage and provide the best housing in it. And that should be concerning to all levels of government." The buildings in the Bronx carried hundreds of code violations and were also rent regulated, limiting what the new owners could charge. Emerald's 2016 purchase was large enough to warrant coverage in New York's robust real estate trade press, which heralded it as "another sign that the long-neglected borough is gaining popularity among investors."

"The Bronx portfolio features many of Emerald's very first acquisitions and serves as a testimony to the soundness of its repositioning philosophy," the company boasted on its now-defunct website.

It is actually testimony to a house-of-cards real estate market in which inflated sales prices doom tenants to apartments whose profitability is made possible only by severely skimping on maintenance—creating conditions that ultimately fall to local government to remedy. That's already happened in the Emerald buildings. In the past three years, New York City's Department of Housing Preservation and Development has made tens of thousands of dollars in emergency repairs and extermination interventions at buildings in the company's portfolio, sending work crews to fix immediately hazardous conditions, including installing self-closing doors and testing for lead.

"The numbers just don't work. These guys would have to be really cutting upkeep," said John Reilly, who retired in August as the executive director of Fordham Bedford Housing Corporation, a nonprofit that maintains thousands of units of affordable housing. "Fordham Bedford has buildings with no mortgages, and it's still very tight to make ends meet." Comparing Emerald's Bronx mortgages with the amount of rent each building produces, Reilly added, "it's a mystery to me that they can keep up with this for much longer."

Barely 18 months after acquiring the Bronx portfolio, Emerald refinanced 34 of the Bronx properties to the tune of $129 million. The building at 311 East 193rd Street, which Emerald had bought in March 2016 for $2.3 million with a $1.7 million loan, was refinanced in August 2017 for $2.1 million. A block away, 2650 Marion, purchased for $3.7 million with a $2.8 million loan, was refinanced for $4.2 million, while 2654 Marion, purchased for $3.9 million, was now refinanced for $4.4 million. The refinancing of Emerald's 34 buildings was, at the time, the largest deal in the history of Freddie Mac's Small Balance loan program. It was made by Sabal Capital Partners, one of the small number of mortgage originators that work closely with Freddie Mac, creating mortgages that Freddie then purchases and turns into investment offerings. The Sabal loans passed muster as safe investments for Freddie Mac partly because they were at loan-to-value ratios below 80 percent.

But that's because between the 2016 purchase and the 2017 refinance, an appraisal showed an increase in value of 71 percent averaged across Emerald's portfolio. The 2017 appraisal of $3.4 million on 311 East 193rd was 47 percent above the 2016 purchase price. At 2654 Marion, the appraisal was $7.2 million —up 86 percent from the purchase price. At 2650 Marion, it was $7.1 million—a 90 percent increase. (Housing values in the rest of the Bronx increased by just 13 percent during a similar period.) In other words, Emerald both overpayed for the properties at purchase and then refinanced—with Freddie's help—at amounts well below the appraised value, making the precarious loans look safe.

"That's part of the disconnect between the financial sustainability of the loan and what it actually means for tenants," said Jacob Udell, director of research at the University Neighborhood Housing Program (UNHP), a Bronx think tank and nonprofit affordable-housing developer. "There's no way that, in the year-plus between Emerald's acquisition and the Sabal refinance, the 'value' of the building would have gone up more than 90 percent—but no one seems to care about what that figure means in practice for tenants as long as the underwriting ratios pencil out."

Freddie Mac and Fannie Mae have played an increasing role in the multifamily lending market since the financial crisis of 2008. Before then, they accounted for about 30 percent of that market. In the years immediately after, their share climbed to 75 percent, then began to decline. But in 2022, Freddie and Fannie still held almost 40 percent of outstanding multifamily mortgage debt, purchasing $142 billion worth of multifamily mortgages.

In the wake of the financial crisis, Freddie Mac was put under conservatorship by the Federal Housing Finance Agency and, to safeguard against the sort of reckless behavior that had contributed to the crisis, a cap was placed on the volume of lending it could engage in. But lending for certain categories of affordable housing—specifically for projects that might otherwise have a hard time borrowing—was, until recently, exempt from the cap. This exemption applied to parts of the Small Balance Loan Program, which allowed Freddie Mac to securitize the debt on the properties owned by Emerald Equities—and over 10,000 others.

"Freddie's willingness to buy these inflated mortgages signals to lenders to keep writing them. Freddie's purchases carry a quasi-public imprimatur," said Udell. "The debt-leveraged and predatory landlord model simply couldn't exist without the types of mortgages that Freddie and Fannie are the largest providers of."

Udell is a coauthor—along with Richard Hedra, an assistant professor at the New School, and the research staff of LISC (the Local Initiatives Support Corporation)—of "Gambling With Homes, or Investing in Communities," a 2022 report arguing that Freddie Mac should be reined in. According to analysis cited in the report, high-dollar refinance loans translate directly into worse living conditions for tenants.

Money from misery: Buildings were sold and resold for tidy profits while the owners spent next to nothing on maintenance or repairs. (Google)

When Sabal underwrote the $129 million refinance of Emerald's properties in 2017, a press release from the firm touted the underwriting process. But if the underwriters examined each property, as they claimed they did, they overlooked the mold at 2605 Morris Avenue, the lead paint a few miles away at 741 Hunts Point Avenue, and myriad other hazardous conditions across the portfolio. Days after Sabal made the record-breaking mortgage deal, Freddie Mac purchased it. These mortgages—a spider's web of debt on 34 buildings comprising 851 apartments—were swiftly bundled into commercial mortgage-backed securities and offered to investors. One such offering, titled CMBS SB-43 2017, included the Windmere Apartments in Littleton, Colo.; Meridian Village in Oklahoma City; and the Gundry Apartments in Paramount, Calif., in addition to some of the Emerald buildings. All told, there were 111 properties in 26 states. Other Emerald buildings ended up in a different CMBS bundle, SB-47, alongside properties in locations ranging from Reynoldsburg, Ohio, to Gardena, Calif.

Emerald sold investors on a plan of "repositioning"—investor-speak for raising rents and attracting higher-income tenants. When Emerald bought the Bronx portfolio in 2016, thousands of New York City apartments were exiting rent regulation every year. That would soon change. The Housing Stability and Tenant Protection Act, passed in 2019 after Democrats broke a generations-long Republican stranglehold on the state Senate, reordered the city's rental market, making it far more difficult to remove apartments from rent regulation and restricting the fees landlords could charge for building-wide renovations. Investors would still need to be paid, but only according to what existing rents could cover.

In April 2018, eight months after the Freddie Mac refinance (and a year and a half before the tenant protections went into effect), Emerald sold half its Bronx portfolio. Fifteen buildings went to the real estate investor Ben Soleimani for $65 million—a tidy $22 million over Emerald's 2016 purchase price. By then, 311 East 193rd Street was worth $2.6 million, and 2654 Marion—mold, lead paint, and all—was supposedly worth $5.6 million. As with the 2017 refinance loans from Sabal, the loans looked relatively conservative because the sales prices were far below the appraised values. Soleimani then loaded additional debt onto the buildings. In the ensuing years, Freddie Mac would purchase refinanced mortgages on Soleimani's portfolio again.

The neighborhood, which I know well—I shifted stones in a community garden there in the mid-1990s, hung out in a friend's apartment there in the early aughts, and still walk through it on my way to work—improved in no appreciable way over the two years those buildings gained 15 percent and 42 percent, respectively, in price. The area is still a struggling-to-get-by kind of place. This isn't that part of the Bronx where luxury towers and bespoke cocktail lounges have recently sprouted. This is the part of the Bronx where bodegas sell loosies and the corners are covered in memorial murals to young men who've been shot.

The buildings here haven't gotten any nicer to live in either—but they've become far more profitable for landlords. That's because they aren't really buildings anymore; they are debt vehicles. And while, at the low end, debt can create a lifetime drag—think grandparents still paying off their student loans and formerly incarcerated people paying restitution fees for decades—at the high end, debt is opportunity. The real estate debt that Freddie Mac is enabling Emerald, Soleimani, and thousands of other landlords around the country to accrue is a form of profit.

That's because Freddie's loans permit the borrower to cash out—with very few strings attached. The loan money can be directed to other investments just as easily as a new boiler, or to acquire additional buildings instead of window guards. Freddie Mac's guidelines do require that if biennial property inspections reveal significant issues, those need to be remedied before a cash-out. But many problems slip below Freddie's catastrophic threshold.

That's a recipe for deferred maintenance—which is something, in fact, that Freddie Mac keeps tabs on. By June 2022, several of Emerald's buildings and those it had sold to Soleimani had been flagged. In the investor information portal that Freddie Mac maintains for its commercial-mortgage-backed securities, it is plain as day: The owner of 311 East 193rd Street allotted $7,575 annually to maintenance and zero to capital expenses in a building worth $3.4 million—on which it was paying $9,500 in debt service. At 301 East 193rd, it was $7,313 in maintenance and zero in capital repairs in a century-old building valued at $4.5 million—with $13,199 in debt service.

Bronx real estate is permanently linked in the public imagination with the landlord arson of the 1970s. Nowadays, landlords don't need to actually burn their buildings to get their cash. With Freddie's help, they can simply refinance them into the ground, taking out loans that carry minimal restrictions on how they are used and spending next to nothing on maintenance.

This isn't the first time Freddie Mac has played a malign role in the Bronx. The agency was the subject of a major Bronx organizing campaign in the late 1980s. At that time, the Northwest Bronx Community and Clergy Coalition called attention to giant Freddie-backed mortgages—unsupportable by the rent rolls— which, like Emerald's mortgages, drove landlord neglect, tenant misery, and eventual foreclosure. In 1991, the US General Accounting Office found that Freddie Mac had underwritten loans at inflated values in 27 of the 35 Bronx buildings it financed. The lender was forced to tighten underwriting standards and eventually sold several of the troubled properties to nonprofit housing groups. That earlier critique is eerily similar to today's complaints. Once again, it's those closest to the ground who are sounding the alarm. A spokesman for Freddie Mac said the entity is run very differently than it was thirty years ago, with significantly more robust underwriting standards and layers of quality control and that the practices of Freddie Mac in the 1980s bear no comparison to today.

Last fall, housing advocates all over the country took advantage of a public comment period on an arcane proposed rule change at the Federal Housing Finance Agency—Freddie Mac's parent—to press for stricter lending standards. "Specifically, we are seeking policy reforms that will prevent the GSEs [meaning Freddie Mac and Fannie Mae] from financing loans that contribute to displacement and substandard living conditions for low-income tenants and tenants of color," wrote Kevin Stein, the chief of legal and strategy for the California Reinvestment Coalition, in a letter signed by 35 housing groups. They urged the FHFA to stem displacement and avoid locking in substandard living conditions by requiring Freddie Mac's loans to be underwritten only up to levels supported by the rent rolls and realistic expenses—and that any loans taken out on buildings include mandates to fix poor conditions. A spokesperson for Freddie pointed to its Multifamily Seller/Servicer Guide, which already requires that loans be underwritten at current rent levels and that before Freddie completes a deal, a property condition report must be filed disclosing—as well as setting aside funds and stating specific plans for fixing—"suspected structural, mechanical, electrical or other material physical deficiencies or Mold." Freddie is also required to check public records for housing code violations or pending litigation.

Brownout in the Bronx: The ceiling in Vianca's bathroom at 2650 Marion, where a toilet upstairs has been leaking since shortly after she arrived in 2021. (Eileen Markey)

On one 90-degree day last summer, after I shifted from parsing financial records to speaking to tenants, I visited 2654 Marion Avenue. At one apartment, when Vianca, the tenant, opened the door a crack, I could immediately feel the stifling heat inside. She didn't have air-conditioning and was keeping the fan in a back bedroom where her three kids were watching TV. The apartment smelled powerfully of bleach. That's because dark brown liquid seeps from her upstairs neighbors' bathroom every time they flush the toilet and runs down the white tile wall of Vianca's spotless bathroom. "Every day, every day," Vianca says, she washes the wall and floor with bleach, but a faint shadow of the brown line is stained into the tile.

She's complained to the super, whom she sees around the building once in a while. But he hadn't been back in two months. The fact that her landlord, Ben Soleimani, allotted no money to pay building staff (according to records he filed with Freddie Mac the month before) might have something to do with the super's scarcity. In the June 2022 update to investors in CMBS SB-47 2018—which includes 2654 Marion—Soleimani disclosed that he'd spent $13,097 on maintenance for the building that year. Next door at 2650 Marion, he'd spent just $9,577 on maintenance and repairs. According to city property records, three months later, in September 2022, he took out an extra $1.2 million on 2654 Marion, and once again Freddie Mac sprung for the refinance, despite what was by then a well-established pattern of neglect.

Vianca arrived at 2654 Marion in February 2021, after spending a year of the pandemic in the city shelter system when the apartment she was living in with several relatives got too crowded. Her rent is more than $1,100. At the time Vianca worked at a warehouse packing vegetables into Styrofoam and plastic wrap for sale in grocery stores. At $15 an hour, with variable hours, she usually brought home about $480 a week. "It takes three weeks' work to pay the rent," she says in Spanish, holding up her pinkie, ring, and middle fingers. A growing number of tenants in New York are in the same boat, even with the 2019 protections.

Vianca keeps all her important papers in one manila envelope: the kids' Social Security cards, the shelter intake form, the rent agreement, and her son's high school enrollment—along with a photocopy of the $1,187 money order she paid to Soleimani in June 2022. That month, Soleimani paid $19,827.26 in debt service, which is to say that investors made $19,827.26 on 2654 Marion that month. Vianca had to factor the price of bleach into her calculations for how to stretch what little she had left after paying rent. It's a help, she says, that her boys get fed at school.

At 311 East 193rd, an extended Nuyorican family has been there forever—40 years, anyway. Juan remembers as a little kid waking up in the middle of the night to smoke and sirens, the glow of orange as the South Bronx burned. His family moved to this place up above Fordham Road when he was three, running from the fires. At one point in the 1990s his family had all but one unit in the building occupied by some *Tio* or *Tia*, *primo* or sister. They never owned it though.A lanky, sinewy guy, Juan looks like a cyclist—shaven head, age ambiguous but for his era-tagging memories.32 "The building is in OK shape because we maintain it," he says with diffident pride as he puts his key in the lock. If they didn't, it would be run into the ground by now, he adds. A licensed carpenter, Juan makes repairs in all the apartments, much better than the super's janky work. A neighbor mops the stairs and lobby every day.

In January 2022, Soleimani tried to sell this portfolio. With no takers, in April he signed a continuation order with his creditors, and in June he borrowed an additional $15 million from New York Community Bank. Then, in September, he refinanced his mortgages with Arbor Realty, another of Freddie Mac's servicers, borrowing an additional $3.8 million across the six buildings, including $1.2 million on Vianca's building.

Soleimani didn't pay the building's water bill between November 2021 and November 2022, a note affixed to his tax bill announces. Nor he did at 311 East 193rd, 2654 Marion, 2606 Marion, 301 East 193rd, or 349 East 193rd Street. In March 2021, the city's Department of Housing Preservation and Development sued Soleimani for failing to provide heat to tenants. On September 16, 2021, Ann Marie Lewis's bathroom ceiling collapsed onto her. A resident of 301 East 193rd Street who pays $2,760 in monthly rent, Lewis had been complaining about mold and a worsening leak in the ceiling for ages. Six months after the collapse, the landlord still hadn't fixed it or the building's plumbing. Finally, in March 2022, Lewis sued. Soleimani's lawyer's argued in court papers that Lewis knew the risk she was taking living in her apartment. Soleimani spent just $7,313 in maintenance and repairs in Lewis's building—and $0 for a super.

A notice of preliminary conference on Lewis's case was issued on August 29—just a few days before Freddie purchased the $3.8 million refinance that Soleimani had secured. But during the pandemic and after, Soleimani made his mortgage payments on time. So did Emerald for its Bronx portfolio. Freddie Mac keeps close tabs on the financial fitness of the investments it offers. Month by month, it released lists of properties that made use of pandemic forbearance. The Emerald and Soleimani portfolios—save one building in Hunts Point—were never on that list. As tenants say, rent eats first. For the owners of these hundreds of homes, however, investors eat first; the boiler, the roof, the plumbing, the paint—those all take a back seat.

LISC argues that local and state governments as well as the feds can prioritize responsibly owned and financially sustainable buildings for low-income tenants in a variety of ways, from expanding code enforcement to establishing acquisition funds that buy up distressed housing and place it under nonprofit control; discouraging speculation through taxes that penalize flipping properties; and requiring Freddie Mac to make sure that new debt is used to repair buildings.

Tenant activists all over the country have been pushing the Biden administration to take action on the housing crisis. After months of negotiation and pressure, in January the White House released a blueprint for a Renters' Bill of Rights. Among the items in it that housing advocates are optimistic about is a commitment by the Federal Housing Finance Agency to study the possibility of adopting tenant protections at properties with GSE-backed mortgages.

Since then, People's Action, a community organizing network with member groups in 40 states, has met with FHFA director Sandra Thompson and pressed the agency to examine Freddie Mac's role in speculation and tenant displacement. "We saw the director have a light bulb moment—that for some actors in the secondary market, their business plan is predicated on tenant displacement," said Tara Raghuveer, the campaign's director. "You'd think that lenders in that business would think about tenants as the end user. It's shocking, but they don't." Raghuveer added that she's optimistic about Thompson. Later this month, the FHFA will issue a formal call for ideas on tenant protections. People's Action is preparing a submission. It plans to spend the summer visiting tenants in 30,000 apartments across the country financed with Freddie Mac funds, to collect stories about their conditions. "We want to make real tenant protections a requirement on every Freddie dollar."

In the Bronx, Julius Bennett and his neighbors were back to court in March and again in April. A judge ordered their landlord to pay $270,000 in penalties for failing to make the repairs—a rare occurrence. Ann Marie Lewis is still waiting.

Note: The text of this article differs slightly from its form in print to reflect the correction of some errors inadvertently introduced during the editing process.

Eileen Markey Eileen Markey teaches journalism at Lehman College CUNY and is writing a history of the people's movement in the Bronx in the 1970s and 80s. She edited *Without Compromise: the Brave Journalism that First Exposed Donald Trump, Rudy Giuliani and the American Epidemic of Corruption,*, an anthology of the work of muckraker Wayne Barrett.