

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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May 4, 2016  
Start: 10:37 a.m.  
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HELD AT: Council Chambers - City Hall

B E F O R E: ROSIE MENDEZ  
Acting Chairperson

JUMAANE WILLIAMS  
Chairperson

COUNCIL MEMBERS: Ydanis A. Rodriguez  
Robert E. Cornegy, Jr.  
Rafael L. Espinal, Jr.  
Mark Levine  
Helen K. Rosenthal  
Ritchie J. Torres  
Barry S. Grodenchik  
Rafael Salamanca, R.  
Eric A. Ulrich

## A P P E A R A N C E S (CONTINUED)

Deborah Rand, Assistant Commissioner  
Housing Litigation  
NYC Dept. of Housing Preservation and Development

Dana Sussman, Special Counsel to Commissioner & Chair  
New York City Commission on Human Rights

Kagan Marie Presley  
Appearing for Florence Rice

Jenny Laurie, Executive Director  
Housing Court Answers

Leanne Landrum, Supervising Attorney  
Tenants' Rights Unit  
New York Legal Assistance Group, NYLAG

Christina Pajovas (sp?), Staff Attorney  
Legal Health Unit  
New York Legal Assistance Group, NYLAG

Ali Davis, Chief of Staff  
Real Estate Board of New York, REBNY

Frank Ricci, Director  
Government Affairs  
Rent Stabilization Association

Tom Cayler, Chair,  
West Side Neighborhood Illegal Hotel Committee  
West Side Neighborhood Alliance

Marti Weithman, Supervising Attorney  
MFY Legal Services

Bennett Baumer, Community Organizer  
Housing Conversation Coordinators  
West Side of Manhattan

1 COMMITTEE ON HOUSING AND BUILDINGS

4

2 [sound check, pause]

3 [gavel]

4 CHAIRPERSON MENDEZ: Good morning,

5 everyone. [coughs] I am Councilwoman Rosie Mendez.

6 I am not Jumaane Williams though sometimes I am

7 almost as handsome as he is. Jumaane is out sick and

8 cannot be her. So as the senior member of the

9 committee, I am chairing today's Housing and

10 Buildings Committee. I am joined today by Council

11 Members Rosenthal, Lancman, Barron, and we here today

12 to discuss three bills: Intro No. 477, No. 688 and

13 755. I will now give a brief summary of each of the

14 bills. Intro No. 477 is sponsored by Council Member

15 Inez Barron, and will require the Department of

16 Housing Preservation and Development to provide

17 tenants who are 62 years of age or older with

18 information about legal services when such tenants

19 are facing eviction. It would also require the

20 Commissioner of HPD to report to the Mayor and the

21 Speaker of the City Council on any pattern of

22 discrimination against such tenants. Just for the

23 record, we've been--one of our guests today, who I

24 suspect may give testimony is Florence Rice, who

25

2 inspired and organized to have this bill hopefully  
3 become law very soon.

4 Intro No. 688 is sponsored by Council  
5 Member Rory Lancman. It would amend the Housing  
6 Maintenance Codes definition of harassment to make  
7 illegally converting a dwelling unit that was  
8 intended for permanent residents' purposes per se  
9 harassment. And Intro No. 755, which was introduced  
10 by the chair of this committee Jumaane Williams would  
11 require HPD to provide tenants with disabilities with  
12 information about legal services when tenants are  
13 facing eviction. It would also require the  
14 Commissioner of HPD to report to the Mayor and the  
15 Speaker of the City Council on any pattern of  
16 discrimination against such tenants. So now I--I'm  
17 going to ask the sponsors of the bills to make some  
18 comments, and we'll start with Council Member Barron.

19 COUNCIL MEMBER BARRON: Good morning.  
20 Thank you Madam Chair. Thanks to all of you who are  
21 here to talk about this important issue. This bill  
22 is actually co-named or sub-named the Florence Rice  
23 Bill, and it was actually introduced by my husband,  
24 my predecessor Council Member Charles Barron when he  
25 was here in the Council. And what it does is it seeks

2 to protect seniors from being evicted and not know  
3 that there are other resources that are available to  
4 them, and it was generated by an eviction proceeding  
5 that was brought against one of the persons that we  
6 hoped to hear testimony from today and that's  
7 Florence Rice. So she'll be able to talk on her own  
8 behalf, but we know from statistics that more than  
9 20% of older adults live in poverty, and that many of  
10 them are rent burdened, and do not qualify for public  
11 benefits. And that there are thousands on wait lists  
12 and have been on such wait lists for many years.  
13 Statistics indicated that by 2030--by the year 2030,  
14 20% of the population will be aged 60 and above. And  
15 while we know the city has many housing plans that  
16 they have introduced with the intent of providing  
17 housing for seniors, we need to make sure that those  
18 seniors that are presently living in apartments where  
19 they are comfortable, where they are familiar with  
20 their surroundings, have the protections to be able  
21 to remain in those apartments so that they will not  
22 be evicted by those unscrupulous landlords that might  
23 want their apartments because of them are paying  
24 rents that are much lower than what landlords feel  
25 they could get if they can evict those tenants. So

2 much of this legislation looks to provide notice to  
3 tenants who are 62 and older as to what rights they  
4 may be entitled to, to be able to have them connected  
5 with organizations and advocates that do that work  
6 and to make sure that we protect those who are so  
7 vulnerable. And someone has said, well they may be  
8 getting notices and they may be getting mail. Each  
9 of us as we know at our perhaps younger ages of below  
10 62 and we get inundated with mail. We don't always  
11 get to it, and it's not always in a format that we  
12 can understand. So what we're trying to do is to  
13 provide services to those who are our elders that  
14 they might be protected from eviction. We'll know  
15 about what agencies there are that can assist them to  
16 fight the evictions. Thank you.

17 CHAIRPERSON MENDEZ: Thank you and  
18 Council Member Rory Lancman.

19 COUNCIL MEMBER LANCMAN: [pause] Thank  
20 you Madam Acting Chairwoman. I'm Council Member Rory  
21 Lancman, the sponsor of Intro 688 along with Council  
22 Member Rosie Mendez, Andrew Cohen, Deborah Rose and  
23 Helen Rosenthal. This legislation would amend the  
24 Administrative Code to include the illegal conversion  
25 of a permanent dwelling to the Housing Maintenance

Code's definition of per se harassment. [coughs]

Since Airbnb launched in New York City in 2009, the number of listings have grown exponentially.

Currently, over 35,000 residential in New York City

are listed for transient hotel use on Airbnb. A

report published in 2014 by the New York State

Attorney General's Office analyzing Airbnb bookings

in New York City from 2010 to 2014 found that nearly

75% of Airbnb's listings are in violation of state

law. Having members of our community turning

residential apartments into transient hotel rooms

destroys the quality of life for other tenants,

presents dangerous safety hazards for all and poses a

grave threat to New York's affordable housing supply.

Additionally, many lower income tenants face pressure

from landlords to vacate their residences as the

financial windfall from operating an illegal hotel

incentivizes such harassment. This legislation will

provide tenants with the necessary tools to help

combat the harms inflicted on average New Yorkers due

to the increasing prevalence of illegal hotel

listings. By expanding the definition of harassment

to include the illegal conversion of permanent

residents, tenants will be given a resource--excuse

2 me--a recourse against landlords who operate or who  
3 turn a blind eye to their tenant's operation of such  
4 illegal hotels. Thanks.

5 CHAIRPERSON MENDEZ: Thank you. Finally,  
6 I'd like to thank the staff who've worked very hard  
7 to assemble this hearing today including Council  
8 Member Williams, Deputy Chief of Staff and  
9 Legislative Director Nick Smith and the Counsels to  
10 the Committee and staff to the committee Jim Wilcox,  
11 Megan Chin, Guillermo Patino, Jose Conde, and [cough]  
12 and Sarah Gastelum. With that said, I'd like to  
13 bring up the first panel to give testimony on these  
14 three bills Deborah Rand, the Assistant Commissioner  
15 for HPD, Terry Davis-Merchant and Dana Sussman. If  
16 you could all come. [background comments, noise,  
17 pause]

18 ASSISTANT COMMISSIONER RAND: Okay.

19 CHAIRPERSON MENDEZ: It has to have a red  
20 light on.

21 ASSISTANT COMMISSIONER RAND: It does.

22 CHAIRPERSON MENDEZ: And please identify  
23 yourself for the record.

24 ASSISTANT COMMISSIONER RAND: I will.  
25 Deborah Rand. I am the Assistant Commissioner for

2 Housing Litigation with the New York City Department  
3 of Housing Preservation and development. I am here  
4 today to testify on the Intros No. 477 and 755, which  
5 would require HPD to provide referrals to seniors or  
6 disabled persons to legal services organizations up  
7 receipt of a notification of the commencement of an  
8 eviction proceeding. And also Intro No. 688, which  
9 seeks to include illegal conversion to transient use  
10 in the definition of harassment in the Housing  
11 Maintenance Code. As you know, HPD is charged with  
12 enforcing the provisions of the New York City Housing  
13 Maintenance and the Multiple Dwelling Law as well as  
14 providing financing for the development of affordable  
15 housing. Through our Office of Enforcement and  
16 Neighborhood Services, the agency responds to  
17 complaints from residents experiencing poor housing  
18 conditions and issues violations when appropriate.  
19 As part of HPD's enforcement efforts, attorneys in  
20 the Housing Litigation Division, what we call HLD,  
21 bring cases in Housing Court seeking compliance with  
22 the Housing Maintenance Code and the Multiple  
23 Dwelling Law. These cases lead to court order, which  
24 may direct correction of poor housing conditions, the  
25 imposition of civil penalties, the appointment of 7-A

administrators or the issuance of access warrants.

Again, to be clear, although HLD does appear in

Housing Court, HLD is not involved in eviction

proceedings, which occur in separate parts of the

Housing Court. Evictions occur when a landlord files

and succeeds in Housing Court to recover possession

of a dwelling unit, and it is generally a private

legal matter between the landlord and the tenant.

HPD's Housing Litigation Division is not involved in

eviction proceedings, and the agency does not have

access to information regarding eviction actions.

Other city agencies, legal services group and

community based organization may become involved

should a tenant seek out one of the many available

programs to assist households facing eviction. The

New York City Human Resources Administration or HRA

manages the city funding of free legal services

programs which provide legal advice and assistance to

income eligible tenants. The Administration has

increased tenant protection legal services more than

tenfold compared to the level funded under the

previous administration reaching \$62 million when

full operational in Fiscal Year 18. In addition, HRA

provides a range of assistance to people who might be

2 rendered homeless through an eviction, utility cut,  
3 and other housing problems, including the homed based  
4 program. Although recent changes--also recent  
5 changes to SCRIE and DRIE, the Senior Citizens Rent  
6 Increase Exemption and the Disabled Persons Rent  
7 Increase Exemption programs, which are seniors and  
8 those with disabilities now allow more people to  
9 qualify for rental assistance and avoid the  
10 possibility of eviction. There is also a tenant  
11 support unit that engages directly with tenants to  
12 help them report housing quality issues, refers them  
13 to legal services organizations to get help against  
14 harassment and provides information on the rights and  
15 affordable opportunities. HPD is involved with  
16 providing information to the public on certain  
17 housing related issues through its housing  
18 information guide, the *ABCs of Housing*. The ABCs are  
19 available on our website at all of our offices and  
20 upon request through 311. The guide contains  
21 information on various housing issues including basic  
22 information on evictions, how tenants can access  
23 legal services such as Legal Aid and Legal Services  
24 New York which provide free legal representation for  
25 income eligible persons, or community based

2 organizations such as Housing Court Answer--Answers,  
3 which provides information for tenants and landlords,  
4 including information about available resources for  
5 tenants facing eviction. While we recognize the  
6 Council's interest in increasing access to legal  
7 representation, HPD has significant concerns about  
8 Intros 477 and 755. These bills would require first  
9 owners to notify HPD when an eviction has commenced  
10 if the tenant is a senior or is a disabled person.  
11 Two, HPD to reach out to the household with  
12 information about a eviction legal services, and  
13 third to report on a pattern--for HPD to report on  
14 pattern of discrimination with respect to these  
15 populations and eviction actions. HPD could not  
16 adequately enforce these bills without having to  
17 verify whether the person served with an eviction  
18 action is actually a member of the groups identified  
19 in Intros 477 and 755.

20 Intro 755 requires an owner to know or  
21 have reason to know that the tenant subject to an  
22 eviction proceeding has a disability. In many cases  
23 owners and managers of buildings may not be aware of  
24 a tenant's existing disability. Disabilities come in  
25 all forms whether they are physical, learning or

2 development in nature. Not all disabilities are  
3 immediately apparent. A person may not choose to  
4 expose their conditions to landlords or other  
5 parties. Intros 477 requires that have knowledge of  
6 a tenant's status as a senior. However, in many  
7 cases landlords have no knowledge or way of verifying  
8 an affected tenant's age. It is also not clear that  
9 the data created by these filings would allow anyone  
10 to accurately track the threat of an eviction related  
11 to seniors and the disabled or establish a pattern of  
12 discrimination on these actions. Compliance with  
13 this requirement would be difficult and even  
14 impossible to enforce since there is no independent  
15 data source to confirm the status of the person  
16 subject to the eviction proceeding. Targeting these  
17 populations through outreach and education campaigns  
18 with educational materials may be the more proactive  
19 and comprehensive approach allowing important  
20 information to be available to these households prior  
21 to the commencement of an eviction action. Working  
22 with our sister agencies and New York City Department  
23 of the Aging and the Mayor's Office for People with  
24 Disabilities, we welcome the opportunity to continue  
25 to discuss--to discuss with you how to provide more

2 information to these populations on the availability  
3 of legal representation on eviction matters before an  
4 eviction happens.

5 Intro 688 would add illegal conversions  
6 to the definition of harassment within the Housing  
7 Maintenance Code. It is our understanding that this  
8 bill was intended to target illegal activity by  
9 owners who convert their residential units for the  
10 purpose of short-term rentals are trends and  
11 offensive.

12 Tenant harassment can come in many forms  
13 that include tactics to get tenants to give up their  
14 apartments or give up their rights. Some landlords  
15 have engaged in a variety of actions, which cause or  
16 are intended to cause tenants to give up their homes  
17 or which interfere with their rights. And HPD  
18 strongly supports efforts to prevent tenant  
19 harassment. Some years ago the city amended the  
20 Housing Maintenance Code to permit tenants to file  
21 proceedings in Housing Court based upon a claim of  
22 harassment. The Housing Maintenance Code currently  
23 defines harassment as any act or omission of an owner  
24 that causes or is intended to cause a tenant to  
25 vacate their unit or surrender their rights, and

2 includes first the use of force or the express or  
3 implied threats by landlords. Second, repeated  
4 interruptions of essential services. Third, failing  
5 to comply with the order to repair or a vacate order  
6 issued by HPD. Fourth, commencing repeated baseless  
7 or frivolous lawsuits in Housing Court. Fifth,  
8 unlawfully removing a tenant's possession, and sixth,  
9 removing the doors and/or changing locks without  
10 notice. And seven, a very recent amendment, improper  
11 efforts to obtain the buyout agreements from tenants.  
12 And finally, sort of a comprehensive thing any other  
13 activities which could be deemed to unlawfully  
14 disturb a tenant's right to quiet enjoyment of the  
15 property.

16           On tenant initiated harassments actions,  
17 HPD is named as a necessary party to these claims,  
18 but the agency--but the agency's involvement differs  
19 depending on the allegations in the claim. Attorneys  
20 from the Housing Litigation Division or often the  
21 judge's court attorney--I'm going to take a minute  
22 and drink a few ounces of water--conference most  
23 harassment cases in order to determine if the cases  
24 can be resolved without a trial. And actions  
25 alleging landlord harassment without an additional

2 claim of poor housing conditions. If the case is not  
3 resolved on consent and there is a trial, HPD's role  
4 is generally to participate in eliciting facts from  
5 the witnesses in order to aid the court in making its  
6 determination. HPD does not have the ability to  
7 undertake the fact finding necessary to determine the  
8 veracity of many of these kind of harassment  
9 complaints. The court must hold full evidentiary  
10 hearings when the parties cannot resolve the matters.  
11 On occasions when HPD has knowledge of a pattern of  
12 conduct in the building, HLD may active support the  
13 tenant's request for a finding of harassment. And in  
14 actions alleging both poor conditions and harassment,  
15 HPD is always actively involved in seeking orders to  
16 correct the violations and the finding of harassment  
17 where appropriate. We would also note that the  
18 definition of *owner* in the bill is quite broad, and  
19 includes lessees for example under the definition in  
20 the Housing Maintenance Code. We have concerns about  
21 the unintended impacts that Intro 688 might create,  
22 but recognize that illegal conversions are an issue  
23 and open to continuing discussion with the Council  
24 and our colleagues at the Mayor Office of Special  
25 Enforcement about the best means to address where it

2 occurs. Thank you for the opportunity to testify  
3 today. We would be glad to address any questions you  
4 have.

5 CHAIRPERSON MENDEZ: Thank you very much.  
6 I just want to say we were joined by Council Member  
7 Ritchie Torres, and currently with us now is Council  
8 Member Ydanis Rodriguez. I'm going to go directly to  
9 my colleagues to ask questions. I just want to  
10 remind everyone that we have until 1 o'clock to be  
11 here in this room. So we have two hours to get  
12 through all the questions and public testimony before  
13 this--this chambers is used by another committee.  
14 So, Council Member Lancman, are you ready to ask  
15 questions?

16 DANA SUSSMAN: Yes. I--I just have some  
17 brief--brief testimony as well.

18 CHAIRPERSON MENDEZ: Oh, okay.

19 DANA SUSSMAN: Sorry about that.

20 CHAIRPERSON MENDEZ: You didn't--you  
21 didn't jump in [laughter] right in.

22 DANA SUSSMAN: Sorry. [laughs]

23 ASSISTANT COMMISSIONER RAND: She's not  
24 as aggressive as I am.

2 CHAIRPERSON MENDEZ: I--okay, that will  
3 be short-lived. [laughter] I'm sure that won't  
4 happen again.

5 DANA SUSSMAN: Got that.

6 CHAIRPERSON MENDEZ: So before we go to  
7 Council Member Lancman, we will give the Commissioner  
8 an opportunity to give testimony on these three  
9 bills.

10 DANA SUSSMAN: Thank you. Good morning  
11 members of the Committee on Housing and Buildings and  
12 thank you for convening this morning's hearing. I'm  
13 going to testify on Intros 477 and 755. My name is  
14 Dana Sussman. I'm Special Counsel to the  
15 Commissioner and Chair at the New York City  
16 Commission on Human Rights. The Commission doesn't  
17 regularly appear before this committee, but we're  
18 happy to do so today with our partners at HPD to  
19 discuss the work the Commission is doing to address  
20 discrimination in housing and specifically with  
21 respect to housing discrimination on the basis of age  
22 and disability. We--we always support efforts to  
23 combat discrimination and are working with our  
24 partners in the Administration and the Council to  
25 address these issues as I will further discuss.

2           With the Council's and the  
3 Administration's support the commission has grown  
4 both in size and scope in the past year as we work to  
5 strategically enforce the city's Human Rights Law,  
6 one of the broadest and most protected anti-  
7 discrimination laws in the country. In doing so,  
8 we've opened 31 more--percent more investigations in  
9 2015 than in 2014 of which approximately one-third  
10 are housing discrimination cases. Complaints based  
11 on disability discrimination represents the largest  
12 proportion of complaints in housing. The vast  
13 majority anecdotally, over 90% or so involve requests  
14 for reasonable accommodations not--not necessarily  
15 eviction issues. Tackling housing discrimination is  
16 a major priority of the commission and we are  
17 addressing it in several targeted ways. We've  
18 rebuilt the Commission's testing program to address  
19 systemic and insidious forms of discrimination in  
20 housing by hiring investigators and an Assistant  
21 Commissioner experienced in housing, and entering in  
22 an MOU with the Fair Housing Justice Center to  
23 specifically address housing discrimination through  
24 testing. We've partnered with several council  
25 members to bring our attorneys to their district,

2 different tenant organizations and large housing  
3 providers to do onsite intake where systemic issues  
4 are uncovered in order for the Commission to conduct  
5 Commission initiated investigations. This is a first  
6 for the Commission, this kind of broad based systemic  
7 where a cut (sic) had previously been done.

8           The Commission has also revamped our  
9 programming and community education outreach. For  
10 example, just last week the Mayor's Office for People  
11 with Disabilities and the Commission co-hosted a  
12 panel discussion on protections against housing  
13 discrimination for people with disabilities. In  
14 Manhattan the promulgation is that Tim Koch Torres  
15 where Commission attorneys were on hand to conduct--  
16 to conduct a legal intake for any individuals who had  
17 complaints of discrimination. The Commission will  
18 also be hosting a much larger fair housing symposium  
19 in June at CUNY School of Law in Long Island City  
20 with many administration partners to educate more New  
21 Yorkers on their rights and responsibilities to the  
22 city's Human Rights Law with respect to fair housing.  
23 The Commission is working with our administration  
24 partners including MOPD, MOIA, HRA, HPD and NYCHA to  
25 train staff, develop a Pearl Network an increase

2 internal capacity to identify housing discrimination,  
3 and refer cases to the commission. If any tenant  
4 believes they're being targeted for eviction because  
5 of their age or disability, or immigration status,  
6 the use of Section 8 voucher or other rental  
7 assistance, religion, race or any other of our many  
8 protected categories, they should immediately call  
9 311 and ask for the Commission on Human Rights.

10 Commission staff will then conduct a short phone  
11 intake and schedule a longer meeting with an agency  
12 attorney to determine if the Commission has  
13 jurisdiction over their claim, and if we do, we will  
14 file a complaint within several days of their first  
15 meeting. We look forward to working with HPD, our  
16 other agency partners, the Council to continue to  
17 address discrimination in housing and its most  
18 insidious forms, and we're happy to answer any  
19 questions about the Commission work in this area.  
20 Thank you.

21 CHAIRPERSON MENDEZ: Thank you for your  
22 testimony. So, Council Member Lancman, are you  
23 ready?

24 COUNCIL MEMBER LANCMAN: [off mic] Yes.

2 CHAIRPERSON MENDEZ: Do you have  
3 questions. Okay. We've also been joined by Council  
4 Member Robert Cornegy.

5 COUNCIL MEMBER LANCMAN: Thank you. Good  
6 morning. My questions to--to HPD on my Bill 688 and  
7 I--I identified two concerns that you--you raised.  
8 One, there are--I just recall from your testimony, if  
9 the permanent tenants are completely unaffected by  
10 the conduct that would not constitute harassment. I--  
11 -I'm sure you understand and I appreciate, and this  
12 Administration has really done a very good job.  
13 We're trying to clamp down [coughs] on--I'll call it  
14 the Airbnb, our problem, and I--I'm sure you realize  
15 that in those circumstances where a unit or units  
16 have been converted to essentially an--an illegal  
17 hotel [coughs] that that can have a significant  
18 impact on the quality of life of everyone in the  
19 building, the coming and going, the transiency, the  
20 people who don't have the same kind of vested  
21 interest in the building, the property that communal  
22 space as everyone else. I--I don't mean this to be  
23 critical, but just as an--as an observation I don't  
24 think that the administration that is doing so much  
25 to try--try to clamp down on these illegal hotels

2 really makes a strong argument when it suggests that  
3 somebody living in a building where there's been an  
4 illegal conversion is not experiencing discomfort, a  
5 loss of quiet enjoyment of their--their--their  
6 apartment, a breach of the peace, et cetera. So I--  
7 I--I want to work with the Administration to--to try  
8 to get to a bill that--that--that you would support,  
9 but I don't--I don't see that as being really a very  
10 serious or strong objection. I--I see it as an  
11 interesting observation, that is a different kind of  
12 harassment than most of the other items in the--in  
13 the law that constitute harassment, but I do know,  
14 you know, that one of the items that currently  
15 constitute harassment, I think it's G: Substantially  
16 interfere with or disturb the comfort, repose, peace  
17 or quiet of any person lawfully entitled to occupy--  
18 to occupancy of such dwelling. So already within the  
19 existing law, the definition of harassment can be  
20 quite broad and not as specific as the landlord has  
21 locked you out of your specific apartment. Do you  
22 want to comment on that?

23 DANA SUSSMAN: Give me a moment.

24 [background comments, pause]

25

2 ASSISTANT COMMISSIONER RAND: First of  
3 all, I would like to say that I have a lot of  
4 experience with unlawful hotel units. I've--I've  
5 worked for the City on that issue. I've been  
6 involved in that issue. I don't think that the  
7 Administration is saying that in all cases it is not  
8 harassment. What we are raising is that at least the  
9 current proposal suggests that it--it doesn't need to  
10 cause or be intended to cause the tenant to give up  
11 some rights including quiet enjoyment or to be--  
12 vacate the unit. So the way it's written now, is  
13 it's strict liability. Whether or not it affects the  
14 tenant, the current proposal and the administration  
15 is concerned about that. Whether or not there could  
16 be another wording of this docket, I'm not in a  
17 position to respond to that. The Mayor's Office of  
18 Special Enforcement isn't here, which enforces ECB  
19 laws violations or in Supreme Court. I don't think  
20 the Administration at all is saying that it can't be  
21 harassing conduct.

22 COUNCIL MEMBER LANCMAN: Okay. Then let  
23 me ask you, I'll call it a technical question. The  
24 other objection that was raised we would also note  
25 that the definition of owner in this bill is quite

2 broad, and includes lessees for example. I--I just  
3 want to highlight that our bill does not change the  
4 definition of owner--

5 ASSISTANT COMMISSIONER RAND:

6 [interposing] Correct

7 COUNCIL MEMBER LANCMAN: --as it's

8 introduced--it is the definition of *owner* that  
9 currently exists in the--in the statute. When you  
10 say includes lessees for example, do you mean that  
11 the landlord leases the apartment to Joe. Joe is the  
12 lessee. Joe is illegally turning his apartment into  
13 an Airbnb hotel. Are you concerned that this bill  
14 would also reach Joe, the lessee?

15 ASSISTANT COMMISSIONER RAND: I don't

16 know whether we're concerned about Joe--

17 COUNCIL MEMBER LANCMAN: [interposing]

18 Uh-huh.

19 ASSISTANT COMMISSIONER RAND: --but we're

20 concerned--I--the Housing Maintenance Code actually  
21 has a very broad definition of owner, and this would  
22 be part of the Housing Maintenance Code. §27-2004  
23 includes any person in control, any lessee, any  
24 landlord. So, you know, we're--it may, in fact, be  
25 an appropriate word to use, but I think it needs to

2 be looked at carefully and see what class of people  
3 you would be including when you talked about owner,  
4 and that's something that obviously the  
5 Administration would have to look at also.

6 COUNCIL MEMBER LANCMAN: Right. Okay,  
7 well, the--the Mayor's Office gave me a call last  
8 night to alert me to some of the concerns that you  
9 had. So this isn't new to me, but I wanted to flesh  
10 it out a--a little bit. I do think we're on the same  
11 page. I do think the Administration has done--made  
12 good efforts to try to address this--this problem.  
13 We want to give tenants an additional tool. So I  
14 look forward, and I'm just--not just typing hearing  
15 verbiage, I do look forward to working with you to  
16 get to a point where--where we can be completely on  
17 the same page and have a bill that the Administration  
18 supports. Thanks very much.

19 CHAIRPERSON MENDEZ: Council Member  
20 Barron to be followed by Council Member Rosenthal.

21 COUNCIL MEMBER BARRON: Thank you Madam  
22 Chair. In your testimony both HPD and HRA you  
23 reference the opportunity to work on this issue.  
24 With the HPD testimony you say we welcome the  
25 opportunity to continue to discuss with you how to

2 provide more information to the populations from the  
3 availability of legal representation before an  
4 eviction becomes a possibility. And with HRA  
5 testimony, you say you're willing to discuss  
6 discrimination in housing and specifically with  
7 respect to housing discrimination on the basis of age  
8 and/or disability or other protected categories. I'm  
9 glad that's our starting point. So with that being  
10 our starting point, how can we do what it is that  
11 these bills are attempting to do. In your testimony  
12 from HPD you say you are not involved in eviction  
13 proceedings. So what are you saying, that you're not  
14 presently and you don't intend to?

15 ASSISTANT COMMISSIONER RAND: We're not  
16 involve--we're--the Housing Litigation Division,  
17 which is the arm of the HPD--

18 COUNCIL MEMBER BARRON: [interposing] Yes.

19 ASSISTANT COMMISSIONER RAND: --that goes  
20 in on private landlord disputes. We appear only on  
21 the Housing Maintenance Code violation issues, and on  
22 other violation issues. We appear to enforce the  
23 Housing Maintenance Code. We do not appear in  
24 eviction proceedings. We are not parties to private  
25 eviction proceedings, and we don't believe it's an

2 appropriate place for us to be. Certainly, the  
3 Administration is willing to sit down with Council  
4 members and try to figure out some way to address  
5 your concerns, which are concerns that I think  
6 everyone has that seniors and people with  
7 disabilities need to be protected. We--the  
8 Administration doesn't think that this bill is an  
9 effective way to do that, or that it's even in our  
10 view workable, and certainly HPD's position is that  
11 we are not the appropriate agency to do this kind of  
12 work.

13 COUNCIL MEMBER BARRON: So enough to say  
14 that you're saying, you know, NIMBY, but who are  
15 that--who are you with? Who do you see as the agency  
16 or the city's ability or the possibilities of making  
17 that happen? What are you offering? What are you  
18 saying--

19 ASSISTANT COMMISSIONER RAND:  
20 [interposing] I--I--

21 COUNCIL MEMBER BARRON: --because we  
22 agree that the premise is that these people need to  
23 be protected.

24 ASSISTANT COMMISSIONER RAND: Correct.

2 COUNCIL MEMBER BARRON: What is your  
3 offer for how to do that beyond what this bill says?

4 ASSISTANT COMMISSIONER RAND: You know,  
5 I'm not the appropriate person to answer, which of  
6 which I would say. I'm here for HPD. I can't really  
7 tell you which agency, but I think the Administration  
8 is willing to sit down with council members and  
9 discuss all of these issues, and try to come up with  
10 some workable legislation.

11 DANA SUSSMAN: And I would just add from  
12 the Commission on Human Rights, we have two main  
13 functions. We enforce the City's Anti-Discrimination  
14 Law, both by accepting complaints from the public and  
15 by doing our own commission initiated investigations  
16 and we--we just believe that discrimination is  
17 happening. We also have a Community Relations Bureau  
18 that educate New Yorkers of all different  
19 constituencies on the Human Rights Law. So with  
20 those two functions we are tackling discriminatory  
21 evictions and discrimination in housing on both age  
22 and disability and many other protected categories.  
23 And, we also welcome opportunities to partner with  
24 different council members and with the aid--with the  
25 Administration on both those areas where we do have

2 expertise, both in law enforcement on discrimination  
3 and in community education outreach.

4 COUNCIL MEMBER BARRON: What is it that  
5 prompts your own initiated investigations?

6 DANA SUSSMAN: Simply if--if someone  
7 comes forward, and believes they are experiencing  
8 discrimination, but for whatever reason, they don't  
9 want to put their name on a complaint for it, and we  
10 can imagine why many people would not want to. The  
11 Commission can actually serve as the complainant. So  
12 it would be Commission versus X Landlord. So, a  
13 person could come forward, or we can get a tip from a  
14 Council Member. We can get a tip from a--a--a legal  
15 service provider. Really, any member of the public  
16 if they think something is going on and we have the  
17 authority to subpoena information and--and ultimately  
18 if we believe that there is--a reason to believe that  
19 discrimination is occurring, we can file a complaint  
20 based on--on the Commission's behalf without any  
21 named complainant.

22 COUNCIL MEMBER BARRON: So for those  
23 persons who for whatever reason are reluctant or  
24 hesitant or just not going to come forward, how would

2 your agency then know that there is a problem that  
3 exists?

4 DANA SUSSMAN: I'd say--

5 COUNCIL MEMBER BARRON: [interposing]  
6 For--for example if there were perhaps an immigrant  
7 community that was afraid to bring attention to  
8 themselves, how then is your agency going to do that?

9 DANA SUSSMAN: Well, it's--it's--it's a  
10 challenge, but it's part of our work on our Community  
11 Relations team. So we've been partnering with  
12 different community-based organizations that feel  
13 this--that--that get this information on the ground,  
14 and they know who to contact at the Commission, our  
15 various different departments, and they can actually  
16 just funnel that information directly to our--our law  
17 enforcement attorneys. So either through community-  
18 based organizations, religious organizations, council  
19 member district offices, whatever it may be that can  
20 funnel that information to us of how-- And--and us  
21 being out in the community and accepting that  
22 information, too, at our various events and--and  
23 workshops.

24 COUNCIL MEMBER BARRON: How many  
25 investigations did you initiate on your own during

2 the last year, or what was the last year that you had  
3 data that tells us how many?

4 DANA SUSSMAN: Sure. We--I can--it may  
5 take me a minute, but we have our--from our annual  
6 report from last year--

7 COUNCIL MEMBER BARRON: [interposing] Yes.

8 DANA SUSSMAN: --we--which has followed  
9 calendar year 2015. We have some data on that, and  
10 if I can't get it to you right this moment, I will  
11 follow up.

12 COUNCIL MEMBER BARRON: Okay, and does  
13 your data describe--describe the source of the  
14 initiation of the investigation whether it was based  
15 on someone coming with a complaint, or someone or an  
16 organization as you say that came to your attention  
17 and lodged that?

18 DANA SUSSMAN: We did not capture that  
19 data in our Annual Report, sort of the source of the  
20 information. We simply have divided it out by  
21 Commission initiated versus what we call complainant  
22 initiatives.

23 COUNCIL MEMBER BARRON: So you do have  
24 it?

2 DANA SUSSMAN: We have that information  
3 and I'm--if I--if I don't have it with me I will get  
4 it to you.

5 COUNCIL MEMBER BARRON: Okay, and do you  
6 have any idea of the range of how many or can you  
7 talk about the trend? Have you seen an increase, and  
8 do you have an idea of--within a particular category  
9 how that trend is moving? Is it disaggregated by  
10 trends--

11 DANA SUSSMAN: [interposing] Yeah.

12 COUNCIL MEMBER BARRON: --or by groups?

13 DANA SUSSMAN: Yeah, well I can say  
14 anecdotally that we are more likely to see Commission  
15 initiated investigations in Housing, which is really  
16 undocumented immigrants because of their  
17 vulnerabilities on many levels, and we're seeing a  
18 lot of tenant harassment on the basis of immigrant  
19 status and national origin. And so we're seeing--  
20 we're seeing that. I think we're also seeing it in  
21 the context of disability and--and with respect to  
22 seniors as well. So the--the--the folks that we're  
23 talking about today, but I can say anecdotally that  
24 we are doing some large scale investigations  
25 involving discrimination, particularly tenant

2 harassment with respect to folks who are undocumented  
3 or--or in immigrant communities.

4 COUNCIL MEMBER BARRON: So do we know how  
5 many--is there an agency? Is it your agency or some  
6 other agency that tells us how many evictions took  
7 place and that's documented?

8 DANA SUSSMAN: That is not something that  
9 we track or that we have access to that kind of  
10 information.

11 COUNCIL MEMBER BARRON: So, there's no  
12 city agency that has that?

13 DANA SUSSMAN: I can't speak to--to--  
14 outside of the Commission.

15 ASSISTANT COMMISSIONER RAND: I don't  
16 believe there is. I'm not positive. The OCA has  
17 that information, the Office of Court Administration.

18 COUNCIL MEMBER BARRON: And did they send  
19 that report to you? Or did you request that report?  
20 How do we know what's happening in our city?

21 ASSISTANT COMMISSIONER RAND: I--I--I  
22 honestly don't have the answer to that. I don't get  
23 that report, but maybe some city agency does.

24 COUNCIL MEMBER BARRON: Okay. So then  
25 that leads me to the conclusion here when we get

1 that-all of that information, and when we can  
2 identify persons--you indicated that we might be  
3 deluged by landlords who in an attempt to not  
4 contravene or go against, or miss someone who might  
5 be 62 and miss out on sending that, but they might  
6 just send this. Listen, here are all the evictions  
7 that I'm planning, and you sort it out as to who is  
8 62 or older, and then make provisions moving forward  
9 from there. If you were to get all of that data, and  
10 if we could, in fact, identify those who are 62 or  
11 older, then what's the resistance or the pushback?

12 ASSISTANT COMMISSIONER RAND: The  
13 Administration doesn't believe that HPD is an  
14 appropriate agency to do that. We are not involved  
15 with evictions. Certainly the Administration will  
16 talk to you about this issue, but it's our position  
17 that HPD is not an appropriate agency for that.

18 COUNCIL MEMBER BARRON: And HRA?

19 DANA SUSSMAN: So the Commission's  
20 jurisdiction is simply to enforce the Anti-  
21 discrimination Law of the city of New York, and I  
22 think simply to enforce. It's not quite that simple,  
23 but that is our mandate, and so I don't--we are not  
24  
25

2 situate at this--at this point to--to be able to  
3 gather that information and act on that information.

4 COUNCIL MEMBER BARRON: No, but my point  
5 is if you had the information--I'm not saying that  
6 you have to go get it--I'm saying if we devise a way  
7 and an opportunity to get the information to you,  
8 what's the issue?

9 DANA SUSSMAN: If--if we see systemic  
10 sort of pattern and practice issues particularly, you  
11 know, a landlord that owns several buildings and we  
12 see a pattern of--a policy or a practice that  
13 disproportionately impacts a certain population  
14 whether it be based on age or race or immigration  
15 status or gender. We--if we get that information, we  
16 can certainly do it an investigation base on--on a  
17 disparate impact analysis of discrimination  
18 certainly. And just to follow up on your earlier  
19 question about Commission initiated cases in the last  
20 year--

21 COUNCIL MEMBER BARRON: [interposing] Uh-  
22 huh.

23 DANA SUSSMAN: --we filed--the Commission  
24 filed over 50 cases.

25 COUNCIL MEMBER BARRON: How many?

2 DANA SUSSMAN: Fifty.

3 COUNCIL MEMBER BARRON: 5-0?

4 DANA SUSSMAN: 5-0 that were Commission  
5 initiated in 2015 in a variety of areas previously,  
6 but prior to Commissioner Malalis starting at the  
7 Commission last year. Commission initiated cases were  
8 limited and very narrow circumstances to small  
9 employee employment sort of add cases, discriminatory  
10 adds, but we've expanded that dramatically. We're  
11 now focusing on disability access issues in housing  
12 to arrests and conviction history discrimination in  
13 employment, one of the new protections in the law.  
14 So it's a broad--a broadening of our commission issue  
15 that--

16 COUNCIL MEMBER BARRON: Of your 50 cases  
17 that you initiated, how many were related to housing?

18 DANA SUSSMAN: [pause] I have here that  
19 we had--well disability access in housing, we--and in  
20 public accommodations we had seven cases.

21 COUNCIL MEMBER BARRON: Seven?

22 DANA SUSSMAN: In--right in disability  
23 access in housing, and public accommodations.

24 COUNCIL MEMBER BARRON: Well, I think  
25 that--that perhaps not reflective of how broad the

2 problem is that we're looking at, and I think it  
3 brings attention to the fact that we need to do more.

4 DANA SUSSMAN: Uh-huh.

5 COUNCIL MEMBER BARRON: I think that  
6 perhaps there might be more than seven cases  
7 throughout New York City where people have been  
8 illegally removed from their homes or discriminated  
9 against for any number of reasons, particularly in  
10 housing, and I think that speaks to why this bill is  
11 so important especially for a population that has  
12 many challenges, and as has been documented by the  
13 data is living in poverty but yet not able to benefit  
14 from so many of the public programs.

15 DANA SUSSMAN: I agree. We absolutely do  
16 not disagree with--with you. I think that when we're  
17 looking at Commission initiated and--and resources,  
18 we're often looking at one case that can have a  
19 broader impact. So while the number doesn't seem  
20 particularly high, and--and I might add that we are--  
21 our Commissioner was appointed last year. We are  
22 still in our rebuilding mode, although, we will  
23 continue to expand. Each case that we bring is a  
24 Commission initiated case. We look at strategic and  
25 systemic enforcement so that we can get more bang for

2 our buck in--with--with--with respect to each case.

3 So when we have a, for example, a--a disability

4 access case in one housing unit, we will look at the

5 entire building. Not only that, we will look at all

6 the buildings that that developer or that landlord

7 owns. So it's--while the number is not exceptional

8 at this point--

9 COUNCIL MEMBER BARRON: [interposing] Uh-  
10 huh.

11 DANA SUSSMAN: --but it--we--we are  
12 looking at limited resources and how we can use those  
13 in the most strategic way possible.

14 COUNCIL MEMBER BARRON: Okay. Well, once  
15 again, I'm glad that we have the same premise that  
16 these--these are populations that need to be  
17 protected and that we need to make sure that they are  
18 not being abused. I look forward to working with you  
19 to make that happen.

20 DANA SUSSMAN: Thank you very much.

21 COUNCIL MEMBER BARRON: Thank you, Madam  
22 Chair.

23 CHAIRPERSON MENDEZ: Thank you. We've  
24 also been joined by Council Member Mark Levine, who  
25 will follow Council Member Rosenthal in questions.

2 COUNCIL MEMBER ROSENTHAL: Thank you so  
3 much, Chair. I want to start from--I want to make it  
4 clear that I start from a place that the  
5 Administration is--is trying to help us figure this  
6 out, and I know how much work that you've already  
7 done. So these questions are maybe a little  
8 nitpicky, but I'm--I'm struggling to understand the  
9 opposition to some of these bills, and I feel if we  
10 better understood the opposition, we might be able to  
11 get to our place of common understanding to our  
12 common goal. First on 477 and on 755, HPD is  
13 testifying on page 4 that it could not adequately  
14 enforce the bills without having to verify whether  
15 the person served with the eviction is a member of  
16 the groups identified. And for these purposes, can  
17 we just talk about SCRIE and DRIE? I--the Department  
18 of Finance I'm curious to know, first of all, why the  
19 Department of Finance is not here testifying because  
20 they, of course, keep these records, and I'm curious  
21 to know why that information could not be shared with  
22 HPD?

23 ASSISTANT COMMISSIONER RAND: First of  
24 all, SCRIE and DRIE do not cover all people with  
25 disabilities and all seniors.

2 COUNCIL MEMBER ROSENTHAL: No, and that  
3 is something that we're all trying to fix--

4 ASSISTANT COMMISSIONER RAND:  
5 [interposing] Right.

6 COUNCIL MEMBER ROSENTHAL: --for sure,  
7 but let's start with the low-hanging fruit, shall we?

8 ASSISTANT COMMISSIONER RAND: So you're  
9 talking about limiting it to people SCRIE and DRIE?

10 COUNCIL MEMBER ROSENTHAL: No, my--I--I  
11 mean let's not play with words. I'm talking about  
12 the low-hanging fruit that DOF currently has where  
13 they know by apartment number who's on SCRIE and  
14 DRIE. Why not welcome the opportunity to help those  
15 folks? No?

16 ASSISTANT COMMISSIONER RAND: I'm sure--

17 COUNCIL MEMBER ROSENTHAL: [interposing]  
18 I mean sure the Administration and the Department of  
19 Finance has testified repeatedly that they would like  
20 all people who should be on SCRIE and DRIE on it, and  
21 they can't identify those people. So we're spending  
22 a lot of taxpayer dollars to try to identify them and  
23 get them enrolled, right? But why not start there?

24 ASSISTANT COMMISSIONER RAND: It may well  
25 be that the Administration is willing to discuss

2 this. HPD is not the appropriate agency, but--but  
3 certainly--

4 COUNCIL MEMBER ROSENTHAL: [interposing]  
5 So why isn't HPD here? I mean DOF here? They are  
6 the appropriate agency.

7 ASSISTANT COMMISSIONER RAND: I don't  
8 speak for them. I don't speak for certain ones. I  
9 don't know. [pause] Oh, apparently DOF was not  
10 invited to the hearing. Okay.

11 COUNCIL MEMBER ROSENTHAL: Well, this is  
12 just silliness. We're trying to get to an answer.  
13 So my question is why couldn't--why isn't there a  
14 computer system that allows HPD to retrieve this date  
15 from the Department of Finance, or why couldn't you  
16 pick up the phone and call them?

17 ASSISTANT COMMISSIONER RAND: We are  
18 certainly willing to discuss with the committee  
19 appropriate legislation. The Administration's  
20 position and HPD's position is that HPD is not the  
21 appropriate agency. Certainly, we're willing to sit  
22 down and talk about this.

23 COUNCIL MEMBER ROSENTHAL: What's your  
24 suggestion on it?

2 ASSISTANT COMMISSIONER RAND: I honestly-  
3 -I--I--I can't speak for the Administration.

4 COUNCIL MEMBER ROSENTHAL: Okay. So  
5 let's go on to 688, and I have to say I'm struggling  
6 with this one, too. I share Council Member Lancman's  
7 question about just trying to understand the  
8 objection to it. And I'm looking at the words  
9 written in the last paragraph of page 7, and I'm not  
10 able to understand the crux of the opposition. I'm  
11 seeing that the opposition seems to be that there  
12 could be a situation where there's no tenant at which  
13 point it would it be irrelevant. Like why not  
14 categorize illegal conversion as harassment? If  
15 there's no tenant that wouldn't stop registering the  
16 registration of an additional definition of  
17 harassment. I'm just trying to understand the thread  
18 of the opposition.

19 ASSISTANT COMMISSIONER RAND:  
20 [interposing] That particular objection goes to a  
21 technical question about the wording of the statute.  
22 It doesn't go to the underlying policy issue. If--  
23 if one looks at the current statute, every  
24 definition, everyone of those individual items  
25 follows the language above, which is causes or is

2 intended to cause. So--so the way the bill is  
3 currently written that sentence is before the causes  
4 or intended to cause instead of after. That's a  
5 technical issue that certainly the Administration is  
6 willing to talk with you about.

7 COUNCIL MEMBER ROSENTHAL: Wait. So if we  
8 fix that, and I'm not a lawyer so I don't know how  
9 easy or hard that is, but if we put the word before  
10 instead of after, then the Administration would feel  
11 fine with it?

12 ASSISTANT COMMISSIONER RAND: I think  
13 the--the Administration has talked with the Mayor's  
14 Office of Special Enforcement, and have talked  
15 internally, but certainly--

16 COUNCIL MEMBER ROSENTHAL: [interposing]  
17 But in regard to the Office of Special Investigation,  
18 what additional information would the Office of  
19 Special Investigation--?

20 ASSISTANT COMMISSIONER RAND: They  
21 enforce the Illegal Hotel Bill.

22 COUNCIL MEMBER ROSENTHAL: Sure.

23 ASSISTANT COMMISSIONER RAND: And--and so  
24 there would have to be a conversation internally. I  
25 certainly think in terms of the meaning of this

2 statute, that would significantly change the meaning,  
3 and make it in my view as a lawyer, make it more  
4 serviced. (sic)

5 COUNCIL MEMBER ROSENTHAL: Okay.

6 ASSISTANT COMMISSIONER RAND: Okay?

7 COUNCIL MEMBER ROSENTHAL: Got it. Thank  
8 you very much.

9 CHAIRPERSON MENDEZ: Council Member  
10 Levine.

11 COUNCIL MEMBER LEVINE: Thank you, Madam  
12 Chair. I want to add my strong support to these  
13 bills and--and want to commend the sponsors, Council  
14 Member Barron and the others. There's been a lot of  
15 discussion about the government's obligation is in  
16 these cases, and I actually believe that the  
17 government has profound obligation to ensure justice  
18 is done in all legal proceedings especially if  
19 there's a possibility of life-altering outcome such  
20 as incarceration, deportation, eviction for sure,  
21 loss of custody of kids by a parent. You really  
22 can't have any certainty about whether we're avoiding  
23 discriminatory practices, or have any kind of  
24 fairness and result in cases where those proceedings  
25 have a lawyer on one side, and no lawyer on the

2 other. And sadly, in Housing Court, in enrichment  
3 cases that is overwhelmingly the status quo. A  
4 status quo even judges a crying out against because  
5 they feel it's unfair. Thankfully, the City is  
6 taking some steps and significant and important steps  
7 to rectify that situation. With the Council's  
8 leadership last year in partnership with--in the--in  
9 the Mayors Office we created for the first time an  
10 Office of Civil Justice, Housing HRA, which perhaps  
11 could have been here. I think they would have had a  
12 lot to say on this topic. They are indeed collecting  
13 data in ways that the City hasn't before some of  
14 which is already available. I mean we know exactly  
15 how many evictions there are in the city. There were  
16 21,998 last year. We know that because the City  
17 Marshals record that, but there were many, many  
18 additional thousands of cases where tenants left  
19 midway through proceeding because they were  
20 intimidated. They were fearful. Many of them were  
21 seniors. Many of them did not understand their legal  
22 rights. Some--some of them mistakenly thought that  
23 if they were undocumented immigrants, they wouldn't  
24 reasonable claim in the case of an eviction  
25 proceedings. Many didn't understand that there are

2 legal services available for free to people who  
3 qualify including seniors and people with  
4 disabilities. So I think those services are not  
5 adequate to cover all the need, but I think we have a  
6 compelling interest in making people--helping seniors  
7 and others understand their rights to legal  
8 representation, and we clearly have an obligation to  
9 do more to extend that representation so that  
10 ultimately every tenant has that benefit, and it will  
11 get us much closer to having justice in Housing  
12 Court. This is turning out to be more of a comment  
13 than a question. So forgive me for that, but I would  
14 welcome your thoughts on--on this as it relates to  
15 these bills or the broader questions of justice we're  
16 addressing today.

17 ASSISTANT COMMISSIONER RAND: In terms of  
18 the broader questions of justice, having been a legal  
19 services lawyer and a government lawyer for--for  
20 years, I obviously agree that it's really important  
21 that tenants have--know their rights, and that they  
22 are properly able to defend themselves. And I think  
23 the Administration, as Council Member you have  
24 raised, has made enormous strides to trying to move  
25 that forward. In terms of, you know, the--these two

2 bills, I think the Administration is willing an  
3 interested in talking with you about how to achieve a  
4 similar result in terms of seniors and disabled  
5 people having the information they need. It's the  
6 particular bills that we're concerned about, but I  
7 know that the Administration shares your concern  
8 about people knowing their rights.

9 COUNCIL MEMBER LEVINE: All right, thank  
10 you very much.

11 CHAIRPERSON MENDEZ: Thank you and I'm  
12 going to ask a few questions. Commissioner Rand, you  
13 had stated that HPD is not the appropriate agency to  
14 be in charge of these proposed legislations. Why  
15 don't you start off by telling me--I mean most of  
16 these eviction cases end up in Housing Court. Some  
17 of them I guess do end up Supreme Court, but in terms  
18 of HPD's role in either Supreme or Housing Court,  
19 what would be your function in one of those  
20 courtrooms?

21 ASSISTANT COMMISSIONER RAND: We do not  
22 appear on eviction cases at all.

23 CHAIRPERSON MENDEZ: Can you repeat that?

24 ASSISTANT COMMISSIONER RAND: HPD does  
25 not appear on private eviction cases.

2 CHAIRPERSON MENDEZ: You do appear in  
3 Housing Court for what kind of cases?

4 ASSISTANT COMMISSIONER RAND: We appear  
5 in Housing Court on Housing Maintenance Code, either  
6 tenant initiated actions or HPD initiated with  
7 actions seeking correction of Code violations.

8 CHAIRPERSON MENDEZ: Okay. So then it's  
9 about maintaining the property in a safe, habitable  
10 condition--

11 ASSISTANT COMMISSIONER RAND: Yes.

12 CHAIRPERSON MENDEZ: --and you are either  
13 made an action to the case if the tenant starts it or  
14 you check the city records and initiatives, your own  
15 cases?

16 ASSISTANT COMMISSIONER RAND: Or we  
17 receive referrals, and--and commence cases.

18 CHAIRPERSON MENDEZ: So you have no role  
19 in eviction cases?

20 ASSISTANT COMMISSIONER RAND: No.

21 CHAIRPERSON MENDEZ: Okay. So, just  
22 because I guess in the interest of disclosure, we  
23 work together, and I was a tenant organizer and you  
24 were a legal services attorney. Back in the day  
25 [laughter] we--

2 ASSISTANT COMMISSIONER RAND:

3 [interposing] That was a long day ago. [laughs]

4 CHAIRPERSON MENDEZ: Yeah, yeah, yeah, I  
5 know. Back in the day, one of the things as  
6 advocates that we fought for and were successful  
7 eventually in getting was having the postcard stamps  
8 on an eviction case so that if you did not get proper  
9 service, the court may allow a postcard. So that  
10 tenants would not find themselves with a marshal at  
11 their door. Do you think that in these cases, right,  
12 would it be beneficial if at Housing Court or  
13 somewhere along the eviction proceeding there was a  
14 check-off or a question that asks if someone was a  
15 senior disabled. Well, then the court would send  
16 information and say if you are a senior disabled  
17 please go to these organizations or follow up to know  
18 what your rights are.

19 ASSISTANT COMMISSIONER RAND: I don't  
20 want to speak--[coughs]--I'm sorry. I don't want to  
21 speak on behalf of OCA.

22 CHAIRPERSON MENDEZ: Okay.

23 ASSISTANT COMMISSIONER RAND: I really  
24 think that's a question that should be directed to  
25 them.

2 CHAIRPERSON MENDEZ: [interposing] So  
3 that would be directed to them, and that would have  
4 nothing to do with HPD. Okay, so--

5 ASSISTANT COMMISSIONER RAND:  
6 [interposing] Well, I mean nothing to do in the sense  
7 of we don't do it--

8 CHAIRPERSON MENDEZ: [interposing]  
9 Eviction.

10 ASSISTANT COMMISSIONER RAND: Obviously,  
11 everyone cares--

12 CHAIRPERSON MENDEZ: [interposing]  
13 Correct.

14 ASSISTANT COMMISSIONER RAND: --about  
15 these issues.

16 CHAIRPERSON MENDEZ: Uh-huh, and the same  
17 thing with the Commission Human Rights?

18 DANA SUSSMAN: Right, we're--we're always  
19 supportive of--of identifying vulnerable populations  
20 and getting the information to the population. So we  
21 do--we welcome conversations about whether it's  
22 information that automatically gets sent where people  
23 check certain boxes. I think we--we'd be open to  
24 having those conversations with the appropriate  
25 different agency partners. Absolutely.

2 CHAIRPERSON MENDEZ: Well, okay. So I am  
3 going to thank you all for your testimony and we will  
4 on this side follow up to determine what we can do in  
5 terms of SCRIE and DRIE tenants with DOF to alert.  
6 As my colleague before set the low-hanging fruit  
7 that--that individuals that we can--at this moment  
8 the city can identify that might be at risk that fit  
9 that criteria, and see what else we can do in terms  
10 of possibly tweaking this language or if need be if  
11 there was a more appropriate agency getting that  
12 agency involved to see how we can provide some  
13 justice for these individuals who may be at risk. So  
14 I want to thank you all for your testimony. So the  
15 first panel to come up to give testimony will be  
16 Florence Rice, Kagan Marie Presley, Jennifer Laurie,  
17 and Leigh Magnum (sp?) [background comments, pause]  
18 So I'm going to ask Ms. Florence Rice to start her  
19 testimony since I know this legislation has been  
20 around for a while, and she's probably eager to give  
21 her opinion this.

22 FLORENCE RICE: [off mic] So I'm stating  
23 my name.

24 CHAIRPERSON MENDEZ: [interposing] So  
25 whenever you're ready.

2 FLORENCE RICE: Florence M. Rice.

3 CHAIRPERSON MENDEZ: It's a pleasure to  
4 have you here today.

5 FLORENCE RICE: I'm a consumer educator.  
6 [pause] And let's get started.

7 MALE SPEAKER: Yeah, just--you can just  
8 start. So just say what happened to you.

9 FLORENCE RICE: Oh, I'd like to say what  
10 happened to me has happened to many--quite few  
11 seniors, and as a result that I want to thank Inez  
12 Barron for putting this bill up. But I think it's  
13 very important because where all the--all that have  
14 lived here we have contributed--people like being the  
15 many advocates who contribute that we--what is  
16 happening to me should not happen to any more  
17 seniors. So that's what I'd like to say right now.  
18 So I will tell you. This is all new to me. [laughs]

19 FEMALE SPEAKER: Okay, if you can say  
20 what happened after your--your apartment was gutted.

21 FLORENCE RICE: Oh, that--

22 FEMALE SPEAKER: And that was very--what  
23 happened in housing, that's the harassment, the  
24 illegal actions, the illegal activity that took  
25 place.

2 KAGAN MARIE PRESLEY: Good morning. My  
3 name is Kagan Marie Presley, and I'm going to give a  
4 detail description for Mrs. Rice. At the time she  
5 was 85. She's now 97, and so, you know, he memory  
6 sometimes comes and goes. But she was evicted in  
7 2004, and what happened is that Mrs. Rice was served  
8 with eviction papers by her landlord who claimed that  
9 she had underpaid her rent for thee years by almost  
10 \$200 per month. And at the time when she was  
11 evicted, she had--she was given--the court appointed  
12 her a legal--legal guardian and her name was Beverly  
13 Grisby. And I'm must going to read some of the  
14 report that Ms. Grisby gave us that she believed that  
15 Ms. Rice--why she believed that Ms. Rice was  
16 illegally evicted. Ms. Grisby reported that the rent  
17 was raised from \$291 to \$458 per month, and Mrs. Rice  
18 was failed--and Mrs. Rice, the--the landlord failed  
19 to inform her of the changes in her rent increase.  
20 The Court and prior to that had ordered several  
21 repairs of the apartment because there were several  
22 housing violations in the apartments. The landlord  
23 agreed that he would repair the apartment and the  
24 specifications were given to the court that he would  
25 start in the kitchen. He would move to the dining

2 room and the bedroom, and it was very clear as to how  
3 he would repair the apartment. However, what  
4 happened--really happened, Mrs. Grisby and Mrs. Rice  
5 went to breakfast one morning, and they were only  
6 away for two hours. When they got back to the  
7 apartment it was entirely gutted. There were--there  
8 were no repairs done. The men came and what they did  
9 they tore the entire apartment apart. They tore the  
10 walls down, everything. You could stand at the front  
11 door and see right through the entire apartment. The  
12 only thing that was left standing in the apartment  
13 was the toilet. So this is very devastating to both  
14 Mrs. Rice. At the time, as I said, she was 85, and  
15 she didn't know what to do. All her belongings  
16 including her furniture they were either bagged and  
17 they were thrown outside of the apartment, in front  
18 of the apartment on the sidewalk. What they did  
19 they--they--they--as I said, they--they would--the--  
20 the--the apartment was completely unlivable. There  
21 was nothing in there. Pictures were taken. She  
22 called in the Fire Department and she called in  
23 several witnesses. So we have pictures of the  
24 apartment, which was constructed--deliberately  
25 gutted. Mrs. Grisby contends that the landlord

2 deliberately planned to refurbish the apartment and,  
3 you know, to use the word refur--he deliberately  
4 planned to refurbish the apartment and force Mrs.  
5 Rice to leave so that he could re-rent the apartment  
6 at a higher rate. And what happened is that when  
7 they--when he reconstructed the apartment eventually,  
8 it was reconstructed into three bedrooms. It was  
9 entirely changed with each bedroom with its own  
10 entrance, which would--she contends would indicate  
11 that he intended to rent it to three separate  
12 tenants. So what happened, Mrs. Rice was practically  
13 left homeless. For two years she had nowhere to  
14 live. She had to stay with family, and she had to  
15 stay with other friends. So ten years after--over  
16 ten years after the situation still has not been  
17 resolved. She has had four different landlords, and  
18 she's still in court with this, you know, and this is  
19 as I said a part of what has happened to her. She  
20 has a campaign which is called War on Seniors, which  
21 brings attention to what happens as, you know, we  
22 age. We are not--

23 COUNCIL MEMBER BARRON: [interposing]

24 That's right.

25

2 KAGAN MARIE PRESLEY: We are not able to,  
3 you know, effectively not--I would not say  
4 effectively speak for ourselves but, you know,  
5 there's, you know, there's a lot of just like  
6 paperwork that comes in they might not understand  
7 what the law is or what it means. So, they--you  
8 know, seniors need protection. So this bill is very,  
9 very important that this bill gets passed because it  
10 would protect the rights of seniors from landlords or  
11 anyone who would try to remove them from their places  
12 or dwelling. Moreover, it is not easy when you are a  
13 senior to, you know, to go look for an apartment.  
14 These people are retired, and Mrs. Rice is an  
15 activist. She has made several contributions on the  
16 consumer field, and it is very important that not  
17 only herself, but, you know, seniors on any level who  
18 have made contributions. They have worked. There  
19 have been family members that have contributed to  
20 the--to our--our communities. They have been stable  
21 parts--parts of family--family lives. It is very  
22 important that we pay attention and make sure that  
23 their housing, the place that they have to live and  
24 retire they feel comfortable. This--it should be  
25 protected. So we thank Councilwoman, Ms. Barron for

2 your husband introducing the bill, and for you and  
3 others to continue to make sure that this bill comes  
4 into effect. Thank you.

5 CHAIRPERSON MENDEZ: Thank you very much  
6 for your testimony. Next whoever is ready.

7 JENNY LAURIE: A hard act to follow. I  
8 commend you all for your really courageous fight on  
9 this issue, and I hope you get in touch with some of  
10 us in the audience and help maybe resolve the  
11 problems in the buildings so the--the repairs are  
12 made and counsel--and legal counsel is retained. My  
13 name is Jenny Laurie. I'm the Executive Director of  
14 Housing Court Answers. Housing Court Answers and  
15 runs information tables in the five county Housing  
16 Courts. We also run a--a helpline, a telephone  
17 helpline for tenants who are facing eviction who need  
18 help with rent arrears, and need information about  
19 their Housing Court cases, and we provide information  
20 table at 851 Grand Concourse, and 250 Broadway for  
21 NYCHA tenants who are facing evictions. And I want  
22 to testify and speak to the issues in the two bills  
23 that address the seniors and--like seniors and  
24 disabled tenants. From our experience I would say  
25 that we deal only with tenants who don't have

2 attorneys. So we're dealing with a very large  
3 population. Last year over 200,000 cases were filed,  
4 non-payment were filed against tenants in Housing  
5 Court so there's a big population of people who don't  
6 have attorneys even with the current administration's  
7 funding for legal services. Seniors and disabled  
8 tenants have a particularly hard time in Housing  
9 Court. Even though Housing Court--the Housing Courts  
10 are public buildings they are not as accessible as  
11 they should be. So there's no written material  
12 that's available to people who have vision  
13 impairments or difficulty reading. There is very  
14 little access for people who have hearing  
15 disabilities or--or limits in--in hearing abilities.  
16 It's impossible in Brooklyn Housing Court for  
17 instance to get into an accessible bathroom. So we--  
18 I've heard myself a tenant in a wheelchair tell me I  
19 had to wear diapers today because getting into an  
20 accessible bathroom in--in Brooklyn Housing Court is  
21 impossible. The elevators in some of the other  
22 courts are impossible to get into. They take  
23 forever. It's very difficult for tenants who depend  
24 on Access-A-Ride or someone else to go with them to  
25 Housing Court to get to court on time. As many of

2 you know, there's limits on time. If you're not  
3 there by a certain time, your case--there's a default  
4 in your case. If you go there on the wrong day or in  
5 the wrong courtroom, you also have to file a special  
6 kind of paper to get your case put on a different  
7 day. So the court is not a friendly place for people  
8 with disabilities or seniors. There's also a lot of  
9 issues related to the Housing Court cases themselves  
10 obviously. People who have been on fixed incomes  
11 have a difficulty--a difficult time affording their  
12 rents, and many of them face non-payment proceedings,  
13 and there's virtually no affordable housing for  
14 seniors or disabled tenants who are living on SSI or  
15 Social Security retirement that would be affordable to  
16 them and available to them in the--in the--if they do  
17 get evicted.

18           Housing Court Answers supports a right to  
19 counsel for low-income tenants period. We support it  
20 for all tenants, all low-income tenants, and we think  
21 it would be a great thing to start with tenants who  
22 are seniors and disabled. I have some minor  
23 objections that other people have talked about--about  
24 this current bill. I think it would be better aimed  
25 at HRA. HRA houses the Adult Protective Services

2 agents. We--whatever you call it, the--the services  
3 that are provided for adults that are unable to care  
4 for themselves and after themselves. So APS would be  
5 a good target for helping seniors and disabled  
6 tenants who aren't able to help themselves. HRA also  
7 runs the Legal Services Programs now. They--they  
8 manage the contract of legal service providers. So  
9 they would know which legal service providers are  
10 available in Housing Court. A number of the legal  
11 service providers now have offices in the Housing  
12 Courts and take direct referrals from the judges.  
13 And they also are doing, I think as Council Member  
14 Levine remarked earlier, they are currently doing an  
15 update to the study that we did 25 years ago to  
16 determine who's in Housing Court and what are--what  
17 are their attributes? So for instance how many  
18 seniors are being taken to Housing Court? How many  
19 disabled tenants are being taken to Housing Court,  
20 and how many people are sued in a--in a case that  
21 don't actually appear in court? And those are really  
22 important issues to--to--to basically do research on.  
23 And so I think HRA would be the better focus. As I  
24 said before, I think that a right to counsel for  
25 tenants, senior tenants and disabled tenants of low

2 incomes would be the solution, the best solution for  
3 this. And particularly in the situation that we just  
4 heard about, if the tenant had been notified right at  
5 the start of the case, you have a right to a lawyer  
6 and here's how we can provide you with an attorney, a  
7 lot of that heartache and really disruptive behavior  
8 would have been stopped. Thank you very much.

9 LEANNE LANDRUM: Good morning. My name  
10 [AUDIO CUT OUT] [on mic] Okay. My name Leanne  
11 Landrum. I'm a Supervising Attorney at the New York  
12 Legal Assistance Group or NYLAG in our Tenants'  
13 Rights unit, which provides comprehensive on housing  
14 legal services to low-income New York City tenants  
15 including through HRA's, HPLP, or Homeless Prevention  
16 Law Project funding. I'm joined by my colleague  
17 Christina Pajovas, who is a staff attorney at NYLAG  
18 in our Legal Health Unit, which partners with  
19 hospitals and healthcare provider to run on-site  
20 legal clinics to address the legal needs of--faced by  
21 individuals suffering from serious health conditions.

22 First, we would like to strongly commend  
23 the City Council for continuing to take steps to  
24 address the growing problem of eviction of  
25 homelessness and housing insecurity in New York, and

2 we're seeking solutions to help vulnerable New York  
3 Senate--New York tenants maintain stable housing.

4 You know, as you all know, homelessness is a  
5 significant, a huge drain on city and state  
6 resources, the cost of shelter, the increased  
7 healthcare costs, which my colleague is familiar with  
8 and, you know, obviously we're all working to find  
9 solutions to keep individuals and families housed.

10 So the two bills under consideration among--we're  
11 also testifying about the two bills, Intro No. 477  
12 and Intro No. 755 related to our legal service  
13 referrals of the information about legal services for  
14 vulnerable tenants. They are laudable to recognizing  
15 that referral to the services do help prevent  
16 improper eviction for a vulnerable population. We,  
17 of course, support the goal---goals of increasing  
18 protection for elderly and disabled tenants.

19 However, NYLAG believes that every tenant who is  
20 faced with eviction would benefit from referrals to  
21 counsel. Therefore, we urge the City Council to  
22 expand the bill scope to include all tenants facing  
23 eviction in New York City. We believe it's possible  
24 to be over-inclusive in providing information about  
25 legal counsel. I want to speak particularly about

2 the bill sort of related to tenants with disabilities  
3 in order to help illustrate this. Disabilities take  
4 a lot of forms, not all of which are visible. As has  
5 been noted, there may be a disabled family member  
6 that is for example with DRIE you have to be the--the  
7 leaseholder who is not only disabled, but has--you  
8 have to be receiving disability related income. So  
9 SSI, Veterans Disability benefits, and not all  
10 disabled tenants do receive that income. Therefore,  
11 would not--are not eligible for DRIE. So not all  
12 disabilities are visible and a landlord may not be  
13 aware that the tenant is disabled at the time he's  
14 serving a petition.

15 I want to give you a quick case example.  
16 Obviously, Ms. Rice's situation. So, I mean it's  
17 something you see everyday, you know. So we have a  
18 particular client who's a Brooklyn tenant, a single  
19 mother who lives with her son. She did come to NYLAG  
20 through Legal Health partnership. So she suffers  
21 from Lupus, which severely impacts her quality of  
22 life. However, it's not necessarily visible, and it  
23 may not be discernible to her landlord. She had to  
24 stop working because of her health problems, fell  
25 behind in rent and was sued in a non-payment case.

2 So we're defending her in Housing Court. We expect  
3 her to be seeing the City FABS and allow her--to keep  
4 her in a rent stabilized affordable apartment.

5 Obviously to leave the streets and detrimental health  
6 effects of--that are aggravated by housing

7 instability and keep her son in his school--in his  
8 school. But, if she had not come to NYLAG through

9 our Legal Health Partnership, she might not have  
10 known about the availability of free legal services

11 for housing issues, and very likely wouldn't have  
12 been identified as disabled and received referrals

13 under Intro No. 755. So, you know, landlords may  
14 inadvertently violate the law. If there if their--

15 the tenant's disability is not obvious, the tenant  
16 may not want to disclose the nature of their

17 disability to a landlord and my not receive legal  
18 referrals as a result--as a result. Providing legal

19 referrals to all low-income New Yorkers who are at  
20 risk of eviction eliminate--eliminates the potential

21 problem. Of course, by increasing funding the

22 Council or the Mayor has taken steps to recognizing

23 that everyone has right to housing. Again, as the

24 Council is well aware there are great social and

25 fiscal costs to eviction and homelessness. So again,

2 NYLAG thanks and applauds the City Council for  
3 introducing these bills. We thank you for allowing  
4 us to testify today, and if we can be of further--  
5 provide further input--input we would appreciate that  
6 opportunity. Thank you.

7 CHAIRPERSON MENDEZ: Thank you. My--my  
8 question is for NYLAG and anyone else on this panel  
9 who would like to answer. HPD did say here that they  
10 will not be the appropriate agency to have oversight  
11 and enforce this legislation as tasked, and NYLAG you  
12 in your testimony raised some issues with the  
13 legislation. So just some thoughts on what you think  
14 might be the appropriate agency and/or what can we do  
15 either by changing this legislation or something else  
16 in this city to help protect seniors and the  
17 disabled?

18 LEANNE LANDRUM: So thank you, Chair  
19 Mendez. We do have a few thoughts about it, and I  
20 think you may have stepped out when Laurie from  
21 Housing Court Answers addressed that. They show of--  
22 up to ten. We don't do that. However, we understand  
23 that these--so a--a couple of initial thoughts of  
24 attaching these referrals and information to a  
25 petition at the time it's filed. So that a tenant

2 will be served with it. That's what happens with  
3 Social Security denials. But when you get the denial  
4 you receive a referral to all--various agencies that  
5 have terms of appeal, or perhaps either adding to the  
6 current postcard that's sent out when petitions are  
7 filed or, you know, perhaps a second postcard. I  
8 understand that like no one wants to be deluged with  
9 mail that they may not notice. However, I understand  
10 both of those solution would have to be on a state  
11 level. I think that they would require at least  
12 coordination with the Office of Court Administration,  
13 but those are a couple of ideas. And I think the--  
14 you know, we already discussed the Office of Civil  
15 Justice within HRA perhaps that is because they're  
16 already, you know, very much coordinating and  
17 increasing access to Council for low-income tenants.  
18 Perhaps that's an agency that could provide these  
19 referrals.

20 CHAIRPERSON MENDEZ: Anyone else?

21 LEANNE LANDRUM: So, Yes.

22 CHAIRPERSON MENDEZ: And--and I'm sorry,  
23 Laurie, but nature called. You know how that is.

24 JENNY LAURIE: Oh, that's okay. I just  
25 suggested HRA because Adult Protective Services is

2 within HRA. HRA manages the legal services  
3 contracts. So they're providing funding to the legal  
4 service providers in--in eviction cases citywide, and  
5 HRA is currently doing a study within--within their  
6 Research Department on who's in Housing Court, and  
7 HRA is really I think geared up to prevent  
8 homelessness, and to prevent evictions. And, I think  
9 HRA is particularly focused on preventing the  
10 evictions of people who will find it impossible to  
11 find other housing, and will end up in the shelter  
12 system or worse. Whatever. You know, nursing homes,  
13 hospitals--

14 CHAIRPERSON MENDEZ: [interposing] Yes.

15 JENNY LAURIE: --which is a real event--a  
16 real possibility for seniors who get evicted. So I  
17 think HRA would be the agency. I also think--I mean  
18 obviously you have no power over the court system.  
19 Not obviously, but you don't, and so--but presumably  
20 the court system would cooperate with an agency that  
21 wanted to notify tenants of the--of the ability to  
22 access legal services. And certainly, you know,  
23 there are currently programs with in the Housing  
24 Court to basically allow the clerks and the judges to  
25 refer to the legal service providers. And I'm sure

2 there are ways to beef that system up. The problem,  
3 of course, is there are tenants who would be sued in  
4 the court case who would never come to court, and who  
5 might not respond to the written notice that they  
6 get. However, it was served with them. So it would  
7 be nice if there was a way to--I mean on this--on  
8 the state law level it would be nice if there were a  
9 requirement and in a non-payment case that the  
10 landlord would have to go through a hearing to prove  
11 that the tenant who was sued in the non-payment case  
12 wasn't a senior or disabled or some other vulnerable  
13 person. And--and then, of course, it would be nice  
14 if there was some way that HRA had of--or--or some  
15 other agency of following up on cases to see why  
16 people don't appear in court cases.

17 CHAIRPERSON MENDEZ: Thank you very much.  
18 Council Member Barron.

19 COUNCIL MEMBER BARRON: Thank you, Madam  
20 Chair. I want to thank all of the panelists who came  
21 and gave their testimony, and were bold enough to  
22 offer solutions, which we seem to have difficulty  
23 getting from the city as to how they could address  
24 the issue. But I particularly want to give  
25 acknowledgement and thanks to Sister Florence Rice.

2 In case you missed it, she is 97 years old. In case  
3 you missed it, and she has come to be able to talk  
4 about what it is that she has endured over the last  
5 12 years, and it happened at a time when she was 85.  
6 She has a history of being a community activist, and  
7 an advocate, and we certainly owe our thanks for not  
8 giving up, for making the effort to come to be here  
9 at City Hall and all that entails. We also want to  
10 thank those who came to be supportive of her in  
11 getting her here today, and we have an obligation as  
12 an enlightened progressive society to take care of  
13 our seniors and others who have disabilities. It's  
14 an obligation that we have, and we certainly need to  
15 make sure that we address that obligation and act  
16 responsibly. So I want to thank you once again for  
17 coming. It's an honor to have you here, and thank  
18 once again for your steadfastness in this issue.  
19 Thank you, Madam Chair.

20 CHAIRPERSON MENDEZ: Thank you, Council  
21 Member Barron. I want to thank this panel and  
22 particularly Florence Rice. We hope that in the  
23 future no one else, no senior will have to go through  
24 what you went through, and we will keep working at  
25 trying to figure out how it is we can put extra

2 protections in place particularly for our senior  
3 citizens in this city. Thank you very much for  
4 coming here today, and sharing your story with us.

5 FLORENCE RICE: I--I want to thank all of  
6 you for being here because I've been certain--upset  
7 knowing once you get old, you get the business  
8 especially if you're poor. So I want to thank you,  
9 and Brother Barron for this hearing, and that's about  
10 all that I think that--[laughs]

11 CHAIRPERSON MENDEZ: Thank you very much.  
12 The next panel will be Ali Davis from REBNY and  
13 Frank Ricci from the RSA.

14 FLORENCE RICE: Thank you.  
15 [background comments, pause]

16 CHAIRPERSON MENDEZ: So--so whoever is  
17 ready can grab the microphone and start with your  
18 testimony.

19 ALI DAVIS: Good afternoon, Chairperson  
20 Mendez and members of the Committee on Housing and  
21 Buildings. My name is Ali Davis, and I'm the Chief  
22 of Staff at the Real Estate Board of New York. REBNY  
23 thanks you for the opportunity to testify regarding  
24 Intro 688, a proposal that would amend the definition  
25 of tenant harassment to include the illegal

2 conversion of dwelling units. REBNY opposes illegal  
3 construction--

4 CHAIRPERSON MENDEZ: [interposing] Ali,  
5 give me one second because there is noise in the  
6 hallway. Sergeant and it's entering the Chambers and  
7 it's making it difficult for us to hear the  
8 testimony. Thank you very much, Sergeant. I'm  
9 sorry. If you could just please start all over  
10 again. I want to make sure we capture all your  
11 testimony.

12 ALI DAVIS: Sure. Good afternoon,  
13 Chairperson Mendez and members of the Committee on  
14 Housing and Buildings. My name is Ali Davis, and I'm  
15 the Chief of Staff at the Real Estate Board of New  
16 York. REBNY thanks you for the opportunity to  
17 testify regarding Intro 688, a proposal that would  
18 amend the definition of tenant harassment to include  
19 the illegal conversion of dwelling units. REBNY  
20 opposes illegal short-term rentals, and applauds the  
21 efforts undertaken by the Council and the  
22 Administration to stop this harmful practice.  
23 However, we feel strongly that the penalties must be  
24 directed at those actually responsible for causing  
25 violations. Intro 688 does not take into account

1 cases in which dwelling units are illegally  
2 converted, in other words, sublet for fewer than 30  
3 days to sites such Airbnb by tenants themselves many  
4 of whom may be using these sites without the  
5 knowledge or permission of their landlord. Despite  
6 their best efforts, it is often impossible for an  
7 owner to know the status of every individual unit  
8 they own on a daily basis. As currently written,  
9 Intro 688 would allow tenants to illegally convert  
10 their residents and create a series of inconvenience  
11 for their fellow tenants, not to mention the building  
12 owner, him or herself, only to have the owner  
13 penalized for harassment once the conversion is  
14 reported. REBNY recommends that this bill be amended  
15 to ensure that all penalties for illegal conversions  
16 will be imposed on the person or entity that  
17 initiated the conversion and not simply on the  
18 building owner. With the modifications previously  
19 mentioned, REBNY would support Intro 688. Thank you  
20 again for the opportunity to comment, and we welcome  
21 any opportunity to work the Council to improve this  
22 legislation. I'm happy to answer any questions that  
23 my might have.  
24

2 FRANK RICCI: Thank you, Council Member  
3 Mendez and members of the committee. My name is  
4 Frank Ricci. I'm the Director of Government Affairs  
5 to the Rent Stabilization Association. I'm going to  
6 testify on Intro 688 as well as 477 and 755. I'm  
7 combining my testimony on 477 and 755 because our  
8 objections are really the same for both bills. The  
9 first objection is it's a practical matter, and I  
10 think it was discussed earlier by the--the city  
11 representatives. Many owners, most owners may not  
12 know the age of a tenant, or if they have an actual  
13 disability especially in buildings that are  
14 transferred from one owner to another over a period  
15 of time, and any records that may have indicated  
16 someone's age or disability would be lost, and not--  
17 just not there. Additionally, we don't think it's  
18 appropriate for owners to--to have to go out and  
19 start asking tenants for their age, and their  
20 disability status. It could be interrupted as  
21 harassment then and there just--just inquiring about  
22 something like that. It would make a lot more sense  
23 of as a beginning SCRIE and DRIE tenants, which  
24 obviously, you know, have been already vetted by the  
25 city. A bill like this would apply to them, and not

2 to others. We have no objection really to tenants  
3 having an attorney, being represented in--in Housing  
4 Court by an attorney. In fact, the city has really  
5 ramped up its programs to provide attorneys to  
6 tenants. We've noticed that there's a slight  
7 decrease in the amount of time that owners and  
8 tenants are spending in Housing Court that there's a  
9 quicker resolution to stipulations and that owners  
10 are actually, you know, getting to pay the--the  
11 rental payment they're entitled to because often  
12 times the--the non-payment case is a result of a city  
13 or state agency not making the payment to the owner  
14 on time. So this expedites the whole process. The  
15 other objection we have to both bills is that we  
16 don't think this Council really has any authority to  
17 deal with these two issues since it has some court  
18 procedures, and those requirements are dictated by  
19 the Real Property Actions and Proceedings Law, the  
20 RPAPL, and that's something that--that is under the  
21 purview of the State Legislature, not the City  
22 Council. Additionally, the penalties that are  
23 enclosed in this bill for a violation of not  
24 providing notice is not the same as it would be in  
25 the RPAPL. If you don't do something--if you don't

2 serve a tenant property under the Real Property  
3 Actions and Proceedings Law, you have the opportunity  
4 to cure. Under this bill there's a penalty, so we  
5 think that you're not (sic) in your jurisdiction on  
6 those two bills to begin with. But as I said, we're  
7 supportive of the concept and, you know, I think  
8 everyone has indicated a willingness to sit down and  
9 figure something out today. So I think you can  
10 include us in that regard.

11 I'll switch now to Intro 688. The way  
12 the law--the way this bill is written it makes any  
13 violation of § 28-210.3 grounds for harassment of a  
14 tenants, and as Ali said before me, that would mean  
15 that a tenant who is renting out an apartment through  
16 their Airbnb or a short-term rental where the owner  
17 has no knowledge or even where the owner is objecting  
18 to it and is taking them to court, will now be found--  
19 -now be subject to harassment charges when in reality  
20 it's--it's not the owner who's trying to do it.  
21 It's--it's the tenant. So what Ali failed to mention  
22 is that RSA and REBNY have had numerous meetings with  
23 the City, the Department of Buildings, the Mayor's  
24 Office of Special Enforcement. I'm sure we're going  
25 to have more. One agency seems to kick this issue to

2 the other saying well it's not our jurisdiction.  
3 Now, now we're talking--we're going to talk to ECB.  
4 But this is a huge problem for owners with tenants  
5 illegally renting out their apartments through some  
6 kind of web service and, you know, we want the  
7 violator to be the person who the city goes after,  
8 and not the owner especially when the owner-- And--  
9 and I should add that there's many cases where owners  
10 do become--do have knowledge of a tenant illegally  
11 renting, and the city comes in and slaps the owner  
12 with a fine for a \$1,000 a day. So we have owners  
13 and those continue up until the point of eviction.  
14 So an owner--it can take months. So we have owners  
15 with fines of \$50, \$60,000 who are in court doing the  
16 right thing. Yet, the city is giving them no help  
17 whatsoever, and it's not their fault that their  
18 tenant is illegally renting. So, I think in  
19 summation what we're saying is we need some help. We  
20 don't like the practice either, but this isn't the  
21 right way to do it.

22 CHAIRPERSON MENDEZ: Thank you very much  
23 for your testimony. Council Member Lancman.

24 COUNCIL MEMBER LANCMAN: Thank you. Good  
25 afternoon. You know, the reason that we put this

2 bill in is a sense that too many landlords, too many  
3 owners are not taking this issue seriously enough.  
4 They're getting their monthly rent from whoever is  
5 renting the apartment. They're using it as an  
6 illegal hotel. That's not the owner's problem.  
7 Until it rises to the level where the City might--  
8 will actually start enforcement actions, and what  
9 recourse does a tenant who's following the law have  
10 to get the landlord to own up to his or her  
11 responsibility to make sure that the other tenants in  
12 the building are using their properties in a way--  
13 using their--their apartments in a legal way, and in  
14 a way that's not impacting and diminishing the  
15 quality of life and the safety of the other tenants  
16 in the building. In what scenario do you think it  
17 would be acceptable for the landlord to be  
18 responsible and required to take action when Tenant A  
19 is engaged in misconduct in breach of his or her  
20 lease in a way that affects the other tenants in the  
21 building. Because what I'm hearing from you is that  
22 once you rent the apartment the only concerns that  
23 the landlord has are those violations that impact the  
24 landlord, and we are trying to give every tenant in  
25 that apartment building a tool to get the landlord to

2 do his or her job. Right, because if the landlord is  
3 actively trying to kick out right. Someone brings a-  
4 -a harassment proceeding, they--they don't get money  
5 damages. They don't get a rent abatement. They just  
6 get an order directing the landlord to cure such and  
7 such a problem. The landlord might have to pay a  
8 fine. It doesn't go to the--to the tenant. The only  
9 scenario where this law would come into effect would  
10 be where a tenant felt that the landlord was not  
11 addressing the problem and had to go to court to get  
12 the landlord who is in the position to enforce the  
13 lease that's being violated to--to do so.

14 FRANK RICCI: Well, let me just try and  
15 address a couple of things you said. As a practical  
16 matter here's what happens. The owner gets a  
17 complaint from a tenant that they think one of their  
18 neighbors is renting out short-term. They'll call  
19 the tenant first and say look I'm getting this  
20 complaint. What are you doing about it? The very  
21 first thing the tenant is going to say they're my  
22 relatives, they're my friends, they're just staying  
23 with me for a couple of days. They're staying for a  
24 couple of weeks, and this back and forth can go on  
25 for months. Ultimately, when the complaints keep

2 coming, that's when the owner takes action. But when  
3 you say that the city is trying to give owners tools,  
4 that's what we're asking for and we're not getting  
5 those tools from the City or the Council. The  
6 owners would love to be--and we gave the city I--what  
7 I thought was a pretty good suggestion just last  
8 week, and it's similar to what the City was doing  
9 back in the late '80s and early '90s using the Buddy  
10 (sic) House Law. And then when they became aware of  
11 illegal activity in the build--in their building that  
12 at least the owner could go--the--the DA of that  
13 respective borough would give the owner what they  
14 call a lead jacket to go into court for an expedited  
15 eviction proceeding. So then the owner could really  
16 do something about it, and something like that would  
17 be helpful now, but right now, if the owner goes to  
18 the city and says, hey, I'm having--and we have  
19 plenty of cases like this--I'm having a problem. A  
20 tenant in apartment 2B is renting out short-term.  
21 What does the city do? And--and I'll quote the--the  
22 head of the Mayor's Office of Special Enforcement:  
23 "We don't have time to sort out the facts. We just  
24 want to go and write the violation to the owner at  
25 \$1,000 a day." That's--it's up to ECB when they

2 finally get into ECB to figure out all the facts in  
3 the case. So, you want to give us tools, we're  
4 willing to sit down and talk about right, but right  
5 now we don't have any tools.

6 COUNCIL MEMBER LANCMAN: Well, listen, I  
7 as one of the 51 council member are more than happy  
8 to work with you on--on giving you appropriate tools  
9 that will let you try to solve this problem without  
10 impacting tenants' rights in other ways. You might  
11 be aware that the city right now is having a  
12 conversation about potential excesses and the Police  
13 Department's of nuisance abatement, and what you're  
14 talking about is in the same--same genre. But it is  
15 the landlord who is in the best position. It is the  
16 owner who is in the best position to be able to  
17 enforce the terms of the lease between bad acting  
18 tenant and the landlord. It's not--it's not good  
19 tenant, and I would just say you might have  
20 frustration with the Housing Court process, but  
21 property owners avail themselves of Housing Court all  
22 the time, and somebody who is violating the terms of  
23 their lease can be, you know, sued for violating the  
24 terms of their lease. That's--that's the landlord's  
25 responsibility.

2 FRANK RICCI: Right, but on the flip side  
3 of that, you heard Deborah Rand from HPD recite a  
4 litany of items that constitute harassment. So if an  
5 owner starts bringing a non--a holdover case against  
6 a tenant constantly because they think they're--  
7 they're--they're renting out short-term, that tenant  
8 can bring a harassment case against the owner. So  
9 it's a Catch 22. The owners are as frustrated as  
10 anyone else, and this is what happens everyday.

11 COUNCIL MEMBER LANCMAN: I don't--I don't  
12 know if I really give a lot of credit to that. The  
13 developers--the--the property owners [coughs] the  
14 landlords are very familiar with Housing Court.  
15 They're in Housing Court all the time trying to  
16 remove tenants who are violating their lease of not  
17 payment or whatever it is. So, you know, I'm not  
18 overly sympathetic to the--to the--to the concern  
19 that well, if you--if you bring that case in Housing  
20 Court, then you're going to trigger another provision  
21 of the Tenant Harassment Law. Bear in mind if a  
22 tenant were to bring a claim and lacks the kind of  
23 proof that--that you would need to--to likewise bring  
24 a claim, that tenant is not going to be successful.  
25 So, if--if the facts are there to support that the

2 tenant is illegally converting their apartment into a  
3 hotel, they're there for the tenant. They're there  
4 for the good tenants, they're there for you as well.  
5 But ultimately for me, and I--I spoke to REBNY, you  
6 know, earlier this week. Happy to talk further on--  
7 on this. I really am. We don't want to jam up good  
8 landlords, but we do want all landlords to take  
9 ownership of--of what they own, and be responsible to  
10 the good tenants in the building who right now don't  
11 have a--an effective tool to get the landlord to deal  
12 with the problem tenant.

13 ALI DAVIS: And I would like to echo what  
14 Frank said earlier, which is that we as landlords are  
15 looking for those tools from you. One of the things  
16 that we consistently asked for is--is for the City to  
17 have the ability or maybe not the ability because  
18 there is some questions as whether or not they can,  
19 and to write violations against tenants. It's--it's  
20 a tool that would be very helpful to us when there is  
21 a tenant that we know that is using a--a set like  
22 Airbnb illegally repeatedly, and having the city be  
23 able and be willing to write violations to those  
24 tenants would be helpful to us. I have owner members  
25 who, and manager members who are interested up the

2 city and reporting tenants, as Frank mentioned, and  
3 that's not an option because what will happen is they  
4 will get the violation themselves.

5 FRANK RICCI: And I have to disagree with  
6 you when you say well the owner is in court all the  
7 time, and there are plenty of the owners we're  
8 talking to are right now coming to us because of the  
9 exposure they feel they have if tenants are doing  
10 that. Not because they're in court every time, but  
11 as a practical matter, if you're an owner of a  
12 building and you think this tenant is doing this and  
13 they, you know, lied to you for a month or two saying  
14 it's my relatives, it's my friends. They're only  
15 staying a week. I'm there with them, et cetera. The  
16 other goes and sees his attorney--his or her attorney  
17 and the attorney is going to say well can you prove  
18 it. No, I have a suspicion. Well, then the attorney  
19 has--has an obligation to advise their client that,  
20 you know, you could be exposing yourself on the other  
21 side of harassment if you bring this frivolous case.  
22 So I--I disagree with the premise that--that you just  
23 espoused a few minutes ago, but owners do have to  
24 make those decisions.

2 COUNCIL MEMBER LANCMAN: [interposing]

3 But--

4 FRANK RICCI: --they're not cheap  
5 decisions. It's not cheap.

6 COUNCIL MEMBER LANCMAN: But the tenant  
7 when consulting his or her lawyer, the good tenant,  
8 is also going to get the same feedback from their  
9 lawyer. Well, how do you prove it? What do you  
10 know? Well, it's not really a strong case. I  
11 wouldn't--I wouldn't--I wouldn't advise bringing this  
12 against a landlord because you're going to lose.  
13 It's going to waste everyone's time and money. I  
14 mean--

15 FRANK RICCI: So I--I--they don't have to  
16 get an attorney to--under--under the Harassment Bill  
17 that was passed by this Council eight years ago, they  
18 don't need to. They go into court and HPD represents  
19 them on a harassment case. They don't--they don't  
20 need to hire their own attorney.

21 COUNCIL MEMBER LANCMAN:

22 FRANK RICCI: Well, I don't know if you  
23 were here earlier, but HPD in its testimony  
24 represented that in--in these kind of cases their  
25 role is not to represent the tenant, but to gather

2 facts and H--what HPD said in its earlier testimony  
3 was that [coughs] these kinds of cases, it's hard  
4 for--essentially HPD was saying that they absolved  
5 themselves of--of fulfilling that role in--in these  
6 cases. Whether that's true or not that was their  
7 testimony earlier. But there is a significant cost  
8 in time and effort for a tenant to bring a case like  
9 this. So I--all I'm saying is if the facts on the  
10 ground support the application of this law, this bill  
11 that we're proposing adding it to harassment, it  
12 would also support the landlord's suit against the  
13 bad tenant for violating their lease and--and  
14 violating the law, but we'll talk about it. But I  
15 think we're firmly committed to the idea that the  
16 landlords, the owners should not be able devolve  
17 their responsibility for maintaining legality in  
18 their building to the individual law breaking tenant  
19 because that leaves the rest of the tenants exposed,  
20 and without the ability really to--to preserve the  
21 quality of life and--and quiet enjoyment of--of their  
22 tenancy. Great. To be continued. Thank you.

23 COUNCIL MEMBER ULRICH: Okay, thank you  
24 Council Member Lancman. Boy oh boy, I don't think  
25 RSA or REBNY ever thought to see the day that I was

2 chairing the Housing Committee in the City Council,  
3 but we've also been joined by colleague--

4 COUNCIL MEMBER LANCMAN: [interposing]

5 He--he did a little dance--

6 COUNCIL MEMBER ULRICH: [interposing] I

7 guess.

8 COUNCIL MEMBER LANCMAN: --for a second.

9 COUNCIL MEMBER ULRICH: I think this was--  
10 --this is really a first. Any bills we want to pass?

11 I mean there's nobody here. I'm just saying.

12 Anyway, the lobbyists are getting nervous and I don't

13 know. Thank you. We're going to call up the next

14 panel now. The next panel we'll be joined by Bennet

15 Baumer from Housing Conservation Coordinators. Mr.

16 Tom Taylor and Westside Neighborhood Alliance as well

17 as Mart--yeah, Marti Weithman from Legal Services,

18 and that's all. Okay. Okay, so we don't time the

19 panel but we do have to be out of here by 1:00

20 because Land Use is using this room so--

21 TOM CAYLER: Then I will go first.

22 COUNCIL MEMBER ULRICH: Please.

23 TOM CAYLER: And I will alacratis. My

24 name is Tom Cayler. I'm with the West Side

25 Neighborhood Alliance. I also act as the Chair of

2 the West Side Neighborhood Illegal Hotel Committee  
3 but today I'm here just to talk to you guys about a  
4 tenant who has dealt with the consequences of illegal  
5 conversion in the building where they live. And I'm  
6 speaking in support of 688. I'm in a loft building,  
7 which is an IMD, meaning that it doesn't as yet have  
8 a certificate of occupancy for a residential use.  
9 It's under the Loft Board in New York City right at  
10 the moment, and we're going through the process of  
11 legalization. Back in 2004 the then landlord brought  
12 in a bed and breakfast operator who turned one of the  
13 loft tenants, former artist loft, into a 8-bedroom,  
14 3-bedroom--8-bedroom, 3 bath bed and breakfast in the  
15 unit. In 2008, a subsequent landlord brought in a  
16 youth hostel owner who turned a one-bedroom into a  
17 five-bedroom, and operated it as a youth hostel.  
18 Now, that we're in the legalization process, those  
19 units have to be brought into compliance with  
20 Building Code. The new owner now has planned that  
21 the former artist loft will become three studio  
22 apartments, and the former youth hostels would become  
23 two studio apartments. So as well as having to put  
24 up with the work that was done illegally in the  
25 building, now what we're faced with is that the

2 legalization process is going to cause plumbing,  
3 mechanical, vents, gas lines, electrical lines to  
4 penetrate our floors our ceilings. So, instead of  
5 just legalizing the former illegal work, now they're  
6 going to put in new units, and we're going to have to  
7 suffer that work as well. When illegal work happens  
8 in a building, all the tenants suffer.

9 I would like to contradict Commissioner  
10 Rand when she was--she mentioned that this bill  
11 would--would impact on the unaffected units by the  
12 illegal conversion. When you're living in a building  
13 where there's illegal working going on, there are no  
14 unaffected units. All the units are impacted by this  
15 illegal work. So we support this bill. I would also  
16 just like to comment, Councilman Lancman, on your  
17 discussion you were just having with REBNY here we  
18 don't--the Illegal Hotel Committee at Westside  
19 Neighborhood Alliance does not in any way, shape or  
20 form support tenants renting out their units  
21 illegally. It is a huge problem in the city, and we  
22 need to find a way in which landlords and tenants and  
23 government can work together to try to solve this  
24 problem in the city. Unfortunately for us, where we  
25 have asked over and over again the Administration has

2 not been willing to meet with us at all. We've been  
3 fighting illegal hotels since 2004. We have a long  
4 history of doing it. We have worked with landlords  
5 who had exactly this problem. They've identified a  
6 tenant who is renting illegally. They've taken them  
7 to court. It's a difficult process. It's cost them  
8 thousands of dollars to do what's right, and in many  
9 cases the tenants have walked away making hundreds of  
10 dollars on this. So it's--it's not--we--we recognize  
11 it is not simple, and it would certainly be our  
12 suggestion that landlords, tenants, advocates--  
13 advocacy groups, and the administration and Council  
14 sit down and really talk about what we can do  
15 particularly after the Council meeting we just had  
16 with RBB on October 30th of last year where Airbnb  
17 just essentially sat here and lied to the Council.  
18 But that would certainly be a suggestion of ours is  
19 to find a way in which landlords, tenants and the  
20 city can work together to resolve this problem.  
21 Thank you.

22 MARTI WEISMAN: Good morning. My name is  
23 Marti Weithman. I'm a Supervising Attorney at MFY  
24 Legal Services. Thank you very much for the  
25 opportunity to testify here today. MFY very much

2 supports Intro 688. Illegal hotels have plagued New  
3 York City for well over a decade having an extremely  
4 negative impact on tenants' lives both through a  
5 quality of life issues that are raised with noise at  
6 all hours of the day and night, the overuse of the  
7 common areas of the building and elevators as well as  
8 creating safety and security issues for tenants.  
9 Being short-term rentals for period of less in  
10 residential buildings these buildings do not have to  
11 comply with the same stringent fire and building code  
12 requirements and other transient accommodations have  
13 to. So you have fire hazards for the--for the  
14 tenants who are living in the building as well as the  
15 guests who are--are coming in and staying. In  
16 addition, we have seen the negative impact that  
17 illegal hotels have had on our housing crisis, which  
18 has only exacerbated it, and as Council Member  
19 Lancman mentioned, since the advent of online  
20 platforms such as Airbnb as well as many others, the-  
21 -the problem in the city has only been exacerbated.  
22 We definitely over the years have seen a strong  
23 correlation between illegal hotel operations in  
24 buildings and harassment. By and large the illegal  
25 hotel operations that we see are conducted by

2 building owners as well as third-party commercial  
3 operators and seeing the potential for the  
4 significant profits where they can make illegal rent  
5 in only a few nights of having tourists stay. These  
6 significant profits really do incentivize landlords  
7 to pressure tenants to--in pushing them out of their  
8 homes and stepping up their harassing tactics. Just  
9 to give one example, in one of the residential,  
10 larger residential SRO buildings on the Upper West  
11 Side, the Grand Imperial Court Hotel, they began--  
12 this is a residential SRO so they do have to comply  
13 with the state law of having occupancies of 30 days  
14 or longer. Back in about 2005, they started renting  
15 to tourists on a nightly basis, and along with that--  
16 with that new operation in their building they did  
17 start stepping up the harassment against the tenants  
18 trying to push them out, and we have seen many of the  
19 tenants who were displaced over the years. And  
20 subsequent to the Grand Imperial's commencement of  
21 their illegal hotels operation, they did apply from  
22 the city for a certificate of no harassment, which  
23 they were required to do in order to obtain building  
24 permits to change the use or configuration of the  
25 building. They applied for that back in 2011, and

2 HPD after an investigation did find reasonable cause  
3 to believe that harassment did exist in the building.  
4 They opposed the owner's application, and then after  
5 a hearing where many of the tenants did testify about  
6 the harassment, there was a finding of harassment  
7 based on multiple frivolous lawsuits that were  
8 brought against tenants, a disruption of services, an  
9 well as the failure to make repairs. So this is like  
10 a very strong correlation, and something that we've  
11 seen over and over again in--in multiple buildings  
12 between the illegal hotel operations and harassment.  
13 And I--I would just in closing like to--to comment on  
14 the--those remarks made by the REBNY and RSA. You  
15 know, as Mr. Cayler mentioned, we--MFY also does not  
16 condone any short-term rentals contrary to the state  
17 law. However, you know, we do believe that owners  
18 are responsible for knowing what's happening in their  
19 buildings, and if a tenant is doing, you know,  
20 renting out their unit on Airbnb or another platform,  
21 owners do have a recourse, and they take steps to--to  
22 avail themselves of--of those--of that recourse. We  
23 have really seen an increase in eviction proceedings  
24 against tenants, and we've seen the law actually  
25 change quite considerably and--and tenants are being

2 evicted for this. But we do believe that--that  
3 making this part of the harassment definition is very  
4 important in recognizing the--the impact or the  
5 negative impact this has on tenant's lives, and the  
6 increased pressures that they feel and are  
7 experiencing in--in--by the owners to--to get them  
8 out of their--their house. Thank you very much.

9           BENNETT BAUMER: Hello, my name is  
10 Bennett Baumer. I'm a Community Organizer of Housing  
11 Conversation Coordinators on the west side of  
12 Manhattan. Thanks for the opportunity to share my  
13 concerns about how short-term rentals and illegal  
14 hotels can wreck and buildings' residents quality of  
15 life and the problem of illegal hotels presents a  
16 threat to the residential housing stock and  
17 affordability. According to [insideairbnb.com](http://insideairbnb.com), the  
18 site estimates 53% of listing of Airbnb are entire  
19 apartments or homes, which no doubt are running afoul  
20 of the law buying rentals of less than 30 days in  
21 multiple dwellings, and we're talking about over  
22 19,000 listings, by the way. That would be entire  
23 apartments or homes. A recent panel covered by the  
24 real estate magazine Real Deal surveyed sharing  
25 economy experts who theorized the future of online

2 platform for short-term rentals will be further  
3 professionalizing and upon it. I attached that with  
4 my testimony. That's where the industry is heading  
5 is towards professional illegal boutique hotel  
6 operators. Thus, it's incumbent on the city to crack  
7 down on illegal hotel operators in strengthening the  
8 harassment law to include the use of illegal hotels  
9 is a great start. Building owners already have an  
10 economic incentive to clear rent regulated tenants  
11 from buildings and illegal hotels exacerbate this  
12 problem. Furthermore, a common plan is to clear rent  
13 regulated buildings of tenants in preparation for a  
14 sale, and transient illegal hotels are way to earn  
15 income during that process. In my work building  
16 residents often complain of the hazardous illegal  
17 hotels draining the quality of life. Tenants  
18 complain of over-served late night tourists palming  
19 buzzers when they forget their keys and, of course,  
20 there is no front desk in illegal hotels. Tourists  
21 come to New York to have a good time and often do,  
22 and the apartment next door on that Wednesday night  
23 when you have an early morning meeting the boss. But  
24 usage of illegal hotels can be more just irritating.  
25 It can be a way to drive tenants from the building.

2 It can be a business plan. Along West 49th Street in  
3 Hells Kitchen after the Recession hit, a real estate  
4 company turned to illegal hotels as a way to capture  
5 market rents at a time when rents were falling and  
6 mortgage prices stayed the same. During this period,  
7 housing conservation coordinators and the tenants  
8 associations worked with then Speaker Quinn to get  
9 the landlord to cease running the illegal hotels to  
10 some success. Nevertheless, the property owner  
11 continued the course to evict longstanding tenants.  
12 The city recently increased the funding to the Office  
13 of Special enforcement, the office charged with  
14 enforcing the Illegal Hotels Law. The city can add  
15 another tool in its toolkit by amending §27-2004 of  
16 the Administrative Code and supplement the Anti-  
17 Harassment Law with provisions counting illegal  
18 hotels as harassment.

19 CHAIRPERSON MENDEZ: Thank you very much  
20 and Council Member Lancman.

21 COUNCIL MEMBER LANCMAN: Thank you very  
22 much and thank you all for coming to give your  
23 testimony. I just would like to give you an  
24 opportunity to directly address the concern raised by  
25 the folks at REBNY and RSA that it is essentially

2 unfair to hold the landlord, the owner, accountable  
3 for the misconduct of one tenant in a building who  
4 might be using their--their apartment as--as an  
5 illegal hotel. In circumstances particular where the  
6 landlord either does not know that the apartment is  
7 being used as an illegal hotel, or has difficulty in  
8 gathering the facts and the evidence to--to prove  
9 that in--in court. That was their main objection.  
10 If there is anything you have to say on that, this is  
11 the moment.

12 MARTI WEITHMAN: I--I do believe that  
13 owners are responsible for knowing what's going on in  
14 their buildings. So I--I don't really agree with--  
15 with the response that, you know, they may not know  
16 what's going on or, you know, how are they supposed  
17 to know what's going on. They are responsible for  
18 knowing, and I--I guess I just also you the--Mr.  
19 Baumer testified the majority of--of the issues that  
20 we see are from these larger operations, right, where  
21 multiple units in a building are being used as  
22 illegal hotels, and that's where the real issues come  
23 in where you are seeing the--the quality of life  
24 issues and the safety issues. Not that tenants  
25 aren't doing this, and that that is not a problem,

2 but the--the landlord is in the best position to know  
3 what's going on, and then they do have their  
4 recourse. I don't--I haven't seen many cases where  
5 landlords have been sued for multiple actions about  
6 tenants illegally renting out their units. We've  
7 seen an increase, a very sharp increase in the cases  
8 that landlords, eviction proceedings that landlords  
9 have brought against individual tenants, and we've  
10 seen a sharp increase of tenants being evicted. So  
11 they do have their recourse. I don't--I--I don't  
12 think that they're--that they're concern is--is--is  
13 legitimate. I think that they have their recourse,  
14 and this is meant to be a recourse for tenants who  
15 are experiencing what is happening in the buildings.  
16 And just like any other part of the quiet enjoyment,  
17 or warranty to have livability, that is part of that,  
18 and the landlord again is responsible for that in--in  
19 their buildings.

20 TOME CAYLER: I would--I would certain  
21 echo what Weithman is saying, but I--I--I would that  
22 the number of the landlords who have suffered because  
23 of what their tenants have done here and again at  
24 West Side Neighborhood Alliance have worked with some  
25 of these landlords. So we know that this is true. We

2 know that this happens, but I would also bet that the  
3 number of those is not nothing compared to the amount  
4 of landlords who are bringing in professional  
5 operators and having them establish illegal hotels in  
6 their unit. And that's not a number that we're  
7 hearing. So this--this is a double-edged sword. If  
8 REBNY and--if RSA want to say well we had a few  
9 landlords who were suffering from this, well we have  
10 a lot of tenants who are suffering on the other side  
11 when landlords are participating in this. So, as a  
12 sign of good faith, I'd ask them to say police your  
13 own members start with, and then let's look at the  
14 few who are suffering from it, and then let's see  
15 what we can do about that. Again, I think if the  
16 Administration, the Council and advocacy groups on  
17 both sides were actually to sit down, I think that  
18 New York could establish a model for the country.  
19 Because we're not the only city suffering from this.  
20 Lots of cities have made deals with Airbnb, and found  
21 out what happens when they make deals with Airbnb.  
22 If we want to protect our housing, we need to do it  
23 together, and landlords and tenants have a symbiotic  
24 relationship. Nobody is going to profit unless both  
25 sides profit.

2           BENNETT BAUMER: I would like to perhaps  
3 explore the worse case scenario from a landlord's  
4 perspective. Let's say what RSA was conjuring does  
5 happen, but if you own a building you have a tenant  
6 who is doing illegal hotels, and you didn't know  
7 about it, and you're hit with a harassment case and  
8 you're in case. Your recourse is you go to court,  
9 and you say you didn't know anything about it, and  
10 you--you prove it to the Housing Court Judge, and you  
11 beat the case. That would be the worst case scenario  
12 and in that worst scenario you would still have  
13 recourse, and you could still prevail. Thank you.

14           CHAIRPERSON MENDEZ: I want to thank this  
15 panel for their testimony. I want to thank HPD for  
16 staying to the end of this hearing, and my colleagues  
17 who are still here today. This hearing is adjourned.  
18 Thank you. [gavel]

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1 COMMITTEE ON HOUSING AND BUILDINGS

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 25, 2016