

NYC

Department of Housing Preservation & Development

**Testimony of the Department of Housing Preservation and Development to the
City Council Committee on Housing and Buildings
Introduction 475
Wednesday, December 11th 2013 – 10:00am**

Good morning Chairman Dilan and members of the Housing and Buildings Committee. My name is Chris Gonzalez, Associate Commissioner of Policy and External Affairs at the Department of Housing Preservation and Development. Thank you for the opportunity to present written testimony on proposed Introduction 475 which focuses on the issue of evictions of New York City's elderly population.

Introduction 475 would require the owner of a multiple dwelling notify HPD should they commence or intend to commence eviction proceedings on a tenant over the age of 62. Although we certainly believe notice of an impending eviction would help in preventing unscrupulous landlords from wrongfully targeting elderly tenants with eviction proceedings, we are concerned that this notice requirement is duplicative of what is already required by the New York City Marshal. Before conducting an eviction or legal possession at a residential premises, the marshal must find out whether the premises are occupied by any individual, such as disabled, elderly, or infirm adults, or unattended children, who are unable to fend for themselves. If such a person occupies the apartment, the marshal must notify the Department of Investigations, who, in turn, notifies Adult Protective Services (APS), a division of the New York City Human Resources Administration. Given this existing requirement, adding an additional notice requirement seems like a debatable use of City resources.

It is also worth noting that the bill as written assumes the building owner is aware of the age of their tenants. Other than a tenant seeking SCRIE, we are currently unaware of any requirement that a tenant provide their age to a landlord. Absent that information, it is questionable whether a landlord would be able to comply with this requirement.

Upon receipt of an owner's notification of potential eviction, the bill also requires HPD provide the tenant a list of entities funded by the City to provide legal services. We certainly support the idea of providing tenants access to resources, but in this instance feel it appropriate to defer to our colleagues at the Department For The Aging.

The legislation also requires HPD, in conjunction with the Commission on Human Rights, produce an annual report based on the collected notifications. This again raises the issue of appropriate use of City resources. Since similar information already exists, the resources to collect these notices and produce the required report might otherwise be allocated toward other City services that enforce housing maintenance standards.

Finally, the bill includes language classifying violation of the notice provision as a misdemeanor and subjecting these owners to a fine of up to \$1000. We have concerns about this provision as written since it appears to be an unclassified misdemeanor without a definite term. With more time to review this proposed legislation, we would suggest consulting the District Attorney for appropriate language.

We thank you for the opportunity to provide testimony and would be happy to respond to any follow-up questions you might have.

**TESTIMONY BY THE LEGAL AID SOCIETY BEFORE THE
NEW YORK CITY COUNCIL, COMMITTEE ON
HOUSING AND BUILDINGS**

**Int No. 475, A Local Law to amend the administrative code of the city of
New York, in relation to eviction of elderly tenants.**

December 11, 2013

Good morning New York City Council Member Dilan, Chair of the Council Committee on Housing and Buildings, Council Members, and others. My name is Aurore DeCarlo, Attorney-in-Charge of The Legal Aid Society's Brooklyn Office for the Aging. Thank you for giving me this opportunity to provide feedback on the Council's proposed legislation Int. No 475. As currently drafted this proposed local law requires landlords to notify HPD about individual eviction proceedings against someone 62 or older so as to connect those seniors to needed legal services. This is a welcome development for legal providers serving the senior population. I want to thank the Council members for their efforts in finding protective measures for those who are most vulnerable to the devastating impacts of eviction from one's home.

The Legal Aid Society is the nation's oldest and largest not-for-profit provider of legal help for vulnerable low-income children and adults. The Society handles some 300,000 individual cases and legal matters each year. With a focus on enhancing family stability and security, through a network of neighborhood offices and City-wide special projects operating in all five boroughs of the City, the Society's Civil Practice area helps vulnerable families and individuals with an expansive variety of legal problems. Typically, clients seek assistance from the Civil Practice after exhausting all other avenues for assistance. The Society's Civil Practice is the safety net when all other safety nets fail.

Unlike in our criminal and juvenile rights family court cases, there is no right to counsel in civil matters. Due to lack of resources to meet the need for legal help, which has been increasing

during the economic downturn, we are not able to help all New Yorkers who come to the Civil Practice for assistance with pressing legal problems. These limitations are particularly troublesome when it comes to the city's senior population which is growing at an exponential rate.

The Legal Aid Society's Brooklyn Office for the Aging has been serving seniors in Brooklyn since 1974, and is a recognized leader in the provision of high quality, free civil legal services to low-income elderly Brooklyn residents seeking to age in place and maintain their independence, dignity and quality of life. Priorities for case selection include: Preservation of long-term homes in the community through anti-eviction work and homeowner assistance; provision of counseling and advocacy to secure access to all available government benefit programs; defense of debtor-creditor actions and advocacy for consumer rights; prevention of financial and other abuse; and the drafting and execution of advance directives. The office's catchment area is the entire Borough of Brooklyn, which is home to well over 400,000 residents aged 60 and over. Using a team of lawyers, social workers, paralegals, volunteer attorneys and support staff, our office provides an interdisciplinary and comprehensive approach in order to tackle the myriad of legal problems faced by seniors.

In our office, a large percentage of the applicants for our services are seniors facing eviction, many of them from their long term homes. Given the booming real estate market in Brooklyn, where many neighborhoods have undergone rapid gentrification in recent years, it is not surprising to see a significant increase in eviction proceedings as landlords try to evict long term tenants, particularly rent regulated ones who are often seniors out of their homes to recoup apartments for sale or rent at market levels. We often see landlords commencing nonpayment and holdover proceedings against elderly tenants who participate in rent subsidy programs such as Section 8 and SCRIE, the Senior Citizen Rent Increase Exemption. These are crucial programs that allow seniors with fixed incomes to maintain affordable rents and remain in their long term homes. But rather than complying with the subsidy program requirements or rectifying problems that cause a lapse in

subsidy payments, landlords often resort immediately to eviction proceedings. Throughout 2013 our office has provided legal services to seniors in close to 920 housing related matters, including services in over 480 summary eviction proceedings. In 2012 we provided services to seniors in over 960 housing matters, including services in over 500 summary eviction proceedings.

Whatever the cause of an eviction proceeding, given the frailty that often accompanies old age, along with the frequent presence of physical and mental impairments and the absence of family or community support systems, the resolution of these cases is often very labor intensive. Our staff of lawyers, paralegals, and social workers is likely to have to assist the senior citizen not simply in Housing Court at trial or with a settlement, but also with untangling related government benefit problems and social work issues – everything from accessing needed health care services to tracking down a birth certificate or arranging for a heavy-duty cleaning service. Because of the highly labor intensive and complicated nature of these cases, it is absolutely crucial for us to be able to get involved at an early stage so as to most adequately and comprehensively address these seniors' needs. The longer a senior continues pro se in a summary eviction proceeding, the more likely that senior will unknowingly waive important rights, agree to unconscionable settlement terms, be cowed into vacating or surrendering their home, or simply not appear to defend themselves at all. For this reason, Int 475 is a valuable development as a tool to link seniors to needed legal services as early as possible.

The earlier our staff can get involved in a case, the better chance we have of preserving a senior's home, addressing any health care or capacity issues, accessing appropriate government benefits and income supports, and otherwise stabilizing these seniors' lives so they can maintain their independence and dignity. The sooner seniors potentially facing eviction proceedings can be made aware of available legal services, the likelier they are to get legal counsel that will help them

avoid expensive, time consuming, and exhausting litigation that further frays their already vulnerable lives.

As a final point, I'd like to describe a recent case our office worked on so as to highlight how critically important it is for seniors facing eviction to be provided with early legal intervention. Our client, Ms V, is a woman in her early 70s who only speaks Spanish and lives with three of her minor grandchildren in her home of almost 40 years. Ms V believed she was receiving FEPS, a rent subsidy for families, but the subsidy had been terminated and Ms V fell behind in rent as a result. In addition, Ms V was the victim of abuse at the hands of her estranged husband who stole money orders from her, causing her to further accumulate arrears. Ms V's landlord commenced a nonpayment eviction proceeding against her. Ms V was not made aware of available legal services and had no income to hire a private attorney so she appeared on the case pro se. She entered into a final judgment stipulation which provided her with very little time to pay the arrears. Ms V did not know how to apply for a rent arrears grant from the city, did not know how to effectively negotiate for more time to pay or how to raise available defenses at following court appearances, eventually failed to satisfy the judgment on time and as a result an eviction was enforced. Ms V and her grandchildren were briefly separated while they stayed with friends and slept on couches or floors. It was only after they had been evicted that Ms V and her family contacted our office and sought our assistance. We immediately filed an order to show cause to get Ms V and her grandchildren restored to possession, submitted an application and advocated with HRA for an one shot deal grant, and provided Ms V with social work services to set up direct payments and financial management to avoid future lags in rent payments. Within a week's time we were able to get this family back in their home satisfy all the arrears owed, and provide ongoing social work services to stabilize Ms V's housing and financial situation. Had Ms V been made aware of The Legal Aid

Society at the commencement of the eviction proceeding she and her family could have avoided the many months of stress and the enormous trauma of eviction.

We commend the Council's efforts in drafting laws that will help connect vulnerable seniors like Ms V to needed legal services at the commencement of eviction proceedings. Early legal intervention on these seniors' behalf can stave off the devastating impacts of onerous and daunting litigation and potential eviction while also stabilizing seniors' homes, health, financial independence, and lives. We are happy to provide further input on Int 435 and any other efforts to connect seniors to critical legal services.

Thank you for your time and for giving us the opportunity to testify today.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 475 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Chris Gonzalez

Address: HPD

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 435 Res. No. _____

in favor in opposition

Date: 12/11/13

(PLEASE PRINT)

Name: Aurora DeCarlo

Address: 111 Livingston St Brooklyn NY

I represent: The Legal Aid Society

Address: 111 Livingston St Brooklyn NY

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 475 Res. No. _____

in favor in opposition

Date: 12/11/13

(PLEASE PRINT)

Name: FRANK Ricci

Address: _____

I represent: Rent Stabilization Assoc.

Address: 123 William St., NY NY

Please complete this card and return to the Sergeant-at-Arms