

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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December 13, 2011

Start: 1:49 pm

Recess: 5:49 pm

HELD AT: Committee Room
250 Broadway, 14th Floor

B E F O R E:
ERIK MARTIN DILAN
Chairperson

COUNCIL MEMBERS:
Erik Martin Dilan
Gale Brewer
Leroy G. Comrie, Jr.
Elizabeth Crowley
Lewis A. Fidler
Robert Jackson
Letitia James
Brad S. Lander
Melissa Mark-Viverito
Joel Rivera
Jumaane D. Williams
James S. Oddo
Diana Reyna

A P P E A R A N C E S

Lt. Anthony Mancuso
Bureau of Fire Safety Education
FDNY

James Colgate
Assistant Commissioner for Technical Affairs
And Code Development
NYC Department of Buildings

Kathleen McGee
Director
Mayor's Office of Special Enforcement

Renaldo Hylton
Director of Administrative Enforcement
NYC Department of Buildings

Liz Krueger
Senator
26th District
New York State Senate

Sarah Meier-Zimblar
On behalf of
Thomas Duane
Senator
29th District
New York State Senate

Sarah Malloy-Good
On behalf of
Deborah Glick
Assembly Member
66th District
New York State Assembly

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

Paul Sawyer
On behalf of
Linda Rosenthal
Assembly Member
67th District
New York State Assembly

Jackie Del Valle
Board Chair
Met Council on Housing

Matt Klein
Organizer
Housing Conservation Coordinators

Marti Weithman
Project Director
SRO Law Project
Goddard Riverside Community Center

Anne Cunningham
Tenant Advocate
Tempo Hotel Tenants Association

Kathleen Treat
Chair
Hell's Kitchen Neighborhood Association

Allison Tupper

Vivian Riffelmacher
Founding Member
West Side Neighborhood Alliance

Tom Cayler
Chair
Illegal Hotel Committee
West Side Neighborhood Alliance

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

Gail Shemin

Maria Akiiki

Mel Wymore
Chair SRO Working Group
Community Board 7

Monica Oliveira

Charles Seelig

2 CHAIRPERSON DILAN: Good afternoon
3 everyone. Again, my apologies on my extreme
4 tardiness, but my name is Erik Martin Dilan and
5 I'm the chair of today's City Council's Housing
6 and Buildings Committee, although I thought there
7 was an effort to start a coup in that regard.

8 Today, the committee will be
9 conducting a hearing on two legislative items.
10 One will be dealing with the illegal conversions
11 of apartments into hotel use. The other will be
12 an extension of the carbon monoxide detector law.

13 The two bills specifically are
14 Intro 407, which is a Local Law to amend the
15 city's Administrative Code in relation to fines
16 for illegal conversions of dwelling units from
17 permanent residences to hotels.

18 The second is a Preconsidered item
19 to amend the Administrative Code of the City of
20 New York in relation to carbon monoxide alarms in
21 buildings. We will hear that item first. It
22 should be brief. We'll allow the Administration
23 to leave. I don't believe we have any public
24 testimony on that. Then after that, we'll hear
25 Intro 404, which I imagine the majority of you are

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here to speak on today.

As everyone here probably knows, tenants, advocates and elected officials have long been concerned with the conversion of residential apartments into hotel occupancy. The New York State Legislature took action last year to combat this practice. Intro 404 in the city takes into account the amendments made by the State Legislature and would add to the City's Administrative Code a section prohibiting the illegal conversion of dwelling units from permanent residences to hotels.

This will incorporate violations associated with these illegal conversions of more than one dwelling unit in a building or a second or subsequent violation in a dwelling unit that would be classified as an immediate hazardous violation and would be subject to penalties in a range of \$1,000-\$25,000 on the high end of the range for repeat or aggravated violations.

In a different vein, the Preconsidered Introduction on carbon monoxide will require property owners to replace carbon monoxide detectors, that are currently required to be

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2 install by law, when they exceed the
3 manufacturer's suggested useful life--of which
4 many of them are up to the end of their useful
5 life in residential buildings--with devices that
6 are equipped with an audible warning chip.

7 This committee, as well as the
8 Administration is concerned that some of these
9 dwelling units in the city may contain carbon
10 monoxide detectors that have passed their useful
11 life, since the industry average on the useful
12 life of these pieces of equipment run about six
13 years from the date of installation. And many of
14 these carbon monoxide detectors were installed as
15 a result of this committee's passage of a certain
16 piece of legislation in 2004, which first mandated
17 the installation of carbon monoxide detectors in
18 dwelling units. And they're not equipped with the
19 most up to date technology which includes an
20 audible warning chip.

21 Today, the committee expects to
22 hear testimony regarding these two legislative
23 items from representatives of the Mayor's Office,
24 the Mayor's Office of Special Enforcement, the
25 Fire Department, tenants, housing advocates and

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members of the real estate industry.

As a reminder, I know many of you have, if you wish to testify on any item before the committee's agenda today, please see the sergeant-at-arms and fill out as to whether you're in favor or opposed to any of the items on the agenda.

We'll begin by hearing testimony on the Preconsidered Intro, which we don't expect a lot of testimony on. I do have to just acknowledge that some of the manufacturers of this equipment I believe will be gratuitously donating to the New York City Public Housing Authority, about a donation of about 50,000 carbon monoxide detectors, which is greatly appreciated.

So with that, I'll do a brief introduction of the members who have been here and have been patiently waiting: Council Member Brad Lander of Manhattan--of Brooklyn, sorry--Council Member Leroy Comrie of Queens, Council Member Joel Rivera of the Bronx, Council Member Jimmy Oddo of Staten Island, Council Member Lew Fidler of Brooklyn, Council Member Gale Brewer of Manhattan and sponsor of 404, Council Member Robert Jackson,

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2 Council Member Tish James and Council Member
3 Melissa Mark-Viverito.

4 Council Member Brewer, if you would
5 like to make a statement on 404 at this time, I'll
6 acknowledge you.

7 COUNCIL MEMBER BREWER: Thank you
8 very much. I particularly want to thank the Chair
9 and the Speaker for their support and certainly
10 the Mayor. I am very partial to Shari Hyman, who
11 was previously head of the Mayor's Office of
12 Special Enforcement and worked really hard at the
13 state level and of course the Fire Department and
14 the Buildings Department.

15 I also want to thank the Hotel and
16 Trades Council which brought a lot of issues to
17 our attention originally in the bill in Albany and
18 is now supporting 404, and the same thing with the
19 Hotel Association. I know also we've been in
20 conversation with NYC and Company. I know that
21 Senator Krueger is here. She has been a stalwart
22 supporter and I thank her, Governor Paterson,
23 former Governor Paterson and many of the Assembly
24 Members, particularly Gottfried and Rosenthal.

25 Of course, the main proponents who

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2 have worked incredibly hard are all those who were
3 part of the West Side Neighborhood Alliance and
4 the Illegal Hotels Working Group, Housing
5 Conservation Coordinators, West Side SRO Law
6 Project and groups like Met Council, Tenants and
7 Neighbors and of course the awesome Ann
8 Cunningham.

9 I think you know that to me this is
10 a safety issue. You note that just this week,
11 unfortunately, a police officer was shot. As we
12 know, it was in an illegal SRO in Queens. It's a
13 horrible situation. It's just one more example, I
14 think, where there needs--in Brooklyn. I'm sorry;
15 in Brooklyn, in Cypress Hills; sorry.

16 The issue is that that was a
17 building that had many, many violations. The
18 owner had not paid any of the violations and yet
19 it was an illegal SRO. The issue is that the
20 violations that exist currently, the maximum could
21 be around \$800. That's why we're supporting
22 enforcement of this bill to have higher fines.

23 The bill would simply add to the
24 list of current Building Codes that need to have,
25 within a range, up to \$1,000 to \$25,000. It is a

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2 range; it is not a definite amount. All we're
3 doing is adding to the bill.

4 The Fire Department, when they
5 testified some time ago regarding this issue, they
6 said that these hotels are illegal because they do
7 not meet the fire safety requirements that our
8 city established in hotels to keep people safe.
9 That's why the Hotel Association, for instance, is
10 supportive. Many of these illegal hotels do not
11 have a proper fire alarm system. They lack a fire
12 safety director, which is required. And some
13 don't have enough exits.

14 Over the last ten years, I've
15 spoken to the Fire Department many times about
16 illegal hotels and some of the infractions that
17 they have found they've been very frustrated in
18 trying to get them fixed. The fact of the matter
19 is partly because the fines are not high enough,
20 so people, owners, pay the fines as a cost of
21 business. Hopefully, this bill would stop that
22 action.

23 I also want to mention that the
24 state I think put together a bill that is now
25 being enforced but it can't be properly enforced

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2 by the Mayor's Office of Special Enforcement
3 unless the fines are increased. I think the
4 Borough Board of Manhattan realized that when they
5 passed a resolution in support of the original
6 legislation and so did Community Board 7. I want
7 to thank Community Board 7 and I'm sure Community
8 Board 4 at the same time.

9 So you can see, I think, by the
10 huge turnout today that residents who live in
11 illegal single room occupancies, meaning that
12 there's a hotel that I think is not conforming to
13 the current new state law, and those who've had
14 experience in the past find that permanent
15 tenants--just so people who don't live in an SRO
16 understand this or in a residential hotel--when
17 you are living in a situation where there are
18 people who are coming on a transient basis, they
19 tend to be wonderful tourists that we want in the
20 City of New York but they tend to have late night
21 activities and they tend sometimes to throw up in
22 the elevator. I hate to be blunt. They also tend
23 to be loud, which is not conducive to a permanent
24 resident who A, wants to sleep and, B, wants to
25 get up in the morning and go to work.

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2 The fact of the matter is I know
3 that the Mayor's Office is working hard to try to
4 come up with something that's really necessary,
5 which is lower cost tourism accommodations for
6 those who are tourists. But the fact of the
7 matter is we cannot have tourists living in a
8 temporary basis next to permanent residents. It
9 doesn't fit those who are trying to sleep and
10 trying to get up for work or go to school in the
11 morning. That is not a conducive environment.

12 The fact of the matter is this
13 legislation will help make sure that owners who
14 are doing that will not be able to continue. I
15 want to add that there are some owners who are not
16 doing that. I want to thank them. We know them
17 well. I want to thank them. They are trying to
18 comply with the current new law in Albany, owners
19 who own SROs and residential hotels. I have known
20 many people who live in them who have
21 traditionally always had permanent residence.
22 They certainly deserve gold stars. Thank you very
23 much, Mr. Chair.

24 [Applause]

25 CHAIRPERSON DILAN: Thank you very

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2 much. Again, I want to apologize to the members
3 of the Administration who are here, for my
4 tardiness. But now you guys are up and will speak
5 on the Preconsidered Introduction first. Who will
6 be the lead on that? Just say your name for the
7 record and then you can begin your testimony.

8 LT. ANTHONY MANCUSO: Lieutenant
9 Anthony Mancuso. Good afternoon, Chairman Dilan
10 and members of the Council. I am Lieutenant
11 Anthony Mancuso with the Bureau of Fire Safety
12 Education at the New York City Fire Department.
13 With me today is Assistant Commissioner James
14 Colgate of the Department of Buildings who will be
15 available to answer questions at the conclusion of
16 my testimony.

17 Thank you for the opportunity to
18 speak with you today about a very important bill
19 that amends the New York City Administrative Code
20 to require owners to replace required Carbon
21 Monoxide alarms when they exceed the
22 manufacturer's suggested useful life and,
23 significantly, also requires newly installed
24 alarms be equipped with an audible end of life
25 warning device. Existing CO alarms would be

1 replaced the later of the manufacturer's suggested
2 useful life or six months following enactment of
3 this legislation.
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5 In addition, the bill clarifies
6 owners' and tenants' responsibilities. Owners
7 would now be required to inform tenants of an
8 owner's duty to replace required alarms and
9 tenants would be required to reimburse owners for
10 such replacement in the same manner as for newly
11 installed alarms.

12 As you may be aware, Local Law 7 of
13 2004 mandates the installation of CO alarms in
14 dwelling units in New York City. At that time,
15 the industry average for the CO alarm's useful
16 life was six years from the date of installation
17 and most CO alarms did not have an audible end-of-
18 life warning chip.

19 As a result, there was growing
20 concern that alarms installed pursuant to that law
21 would no longer be functioning properly if they
22 have not been replaced during the seven years
23 since that Local Law was enacted. Moreover,
24 without an end-of-life warning device, people with
25 those expired CO alarms would be unaware that the

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2 alarms in their home were no longer functioning,

3 This legislation addresses these
4 concerns. Accordingly, the Mayor urges the
5 earliest possible favorable consideration of this
6 legislation.

7 The Fire Department in particular
8 supports this legislation for a number of reasons.
9 Carbon monoxide is a colorless, odorless,
10 tasteless and non-irritating toxic gas. Sometimes
11 called the "silent killer", it is completely
12 undetectable by human senses. As a result,
13 hundreds of people are killed each year nationwide
14 by accidental CO poisoning, and thousands are
15 permanently injured.

16 The risk of CO poisoning increases
17 in the winter months in particular, when well-
18 insulated, air-tight homes and malfunctioning
19 heating equipment can produce dangerously high,
20 and potentially deadly, concentrations of CO.

21 The Fire Department believes that
22 our first line of defense is prevention. Prevent
23 or minimize the potential for exposure to CO gas
24 by: having your home-heating systems, fuel-burning
25 appliances, flues and chimneys inspected, cleaned

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2 and serviced annually by qualified technician;
3 refraining from using ovens and gas ranges to heat
4 your home; not burning charcoal inside your home;
5 and never idling a car inside a garage.

6 Our Fire Safety Education teams are
7 constantly getting the word out to the public
8 about these measures.

9 The second line of defense against
10 the dangers of CO is a CO alarm. We know from
11 experience that properly installed and working CO
12 alarms can provide an early warning of the
13 presence of CO, allowing sufficient time for
14 occupants to either escape or take appropriate
15 action, before the deadly gas can build up to a
16 dangerous level.

17 By requiring non-working alarms to
18 be replaced, and by requiring newly installed
19 alarms to be equipped with audible end-of-life
20 warning signal, the proposed legislation will
21 ensure that lives will be saved and we fully
22 support this enactment.

23 Please keep in mind that the Fire
24 Department distributes thousands of donated smoke
25 alarms each year to the public. We rely on the

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2 generosity of manufacturers and retailers of these
3 alarms to carry out this program. In order to
4 help facilitate compliance and awareness, we would
5 like to distribute CO alarms as well, but they are
6 ordinarily more costly than smoke detectors. If
7 the City Council is interested in allocating any
8 of its discretionary funds to help us in our
9 efforts, the FDNY would very happily accept
10 donations of CO alarms, or allocations from the
11 Council to purchase them.

12 Again, I thank you for the
13 opportunity to speak with you today about the
14 proposed legislation.

15 CHAIRPERSON DILAN: I just want to
16 state for the members, this is something that I
17 certainly support. The original bill that we
18 passed in 2004, I think at the time when we passed
19 the bill neither the Administration nor the
20 Council was fully aware about the useful life of
21 all these carbon monoxide detectors which we
22 mandated, and I certainly believe saved several
23 lives since 2004, would have an expiration on the
24 usefulness.

25 At the time I voted, I assumed it

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2 was like a smoke detector. You could replace the
3 battery and you could keep using the same
4 equipment, uninterrupted, like a smoke detector.
5 That turns out not to be the case.

6 So the reason for the rush on this
7 item is because at the end of this year, the
8 majority of these smoke detectors on the market
9 will indeed be obsolete. So we wanted to just get
10 this bill before the members so that we could
11 review it and help deal with this problem and get
12 the proper equipment in homes so that we don't
13 unnecessarily put people at risk.

14 Do any of the members of the
15 committee have any questions on this item?
16 Council Member Jackson?

17 COUNCIL MEMBER JACKSON: Thank you,
18 Mr. Chair. I think that our colleague Gale
19 Brewer, in discussing this particular matter--

20 COUNCIL MEMBER BREWER: [off mic]

21 COUNCIL MEMBER JACKSON: This is
22 the illegal conversion or smoke detector?

23 CHAIRPERSON DILAN: No, we're still
24 on smoke detectors.

25 COUNCIL MEMBER JACKSON: I'm

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2 listening to four people say no, no, no, no. I
3 appreciate that.

4 CHAIRPERSON DILAN: We're on smoke
5 detectors.

6 COUNCIL MEMBER JACKSON: Thank you.
7 I have here a "for the record" from the
8 Association of Builders and Owners. I want your
9 opinion about this as the Fire Department. It
10 says one provision of the proposed legislation,
11 however, creates an unnecessary administrative
12 burden on owners to retain records for the useful
13 life of each detector, which can be different for
14 each unit in a building. And by implication, to
15 attempt to track a replacement schedule for every
16 unit and it could be for up to a dozen or to
17 thousands.

18 Can you comment on that, whether or
19 not that will be a difficult task for building
20 owners to track the time life of every smoke or
21 carbon detector in their homes? What's your
22 opinion about what they just said, what I just
23 read please?

24 JAMES COLGATE: Hi, James Colgate
25 from the New York City Buildings Department. That

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2 particular provision that deals with the record
3 keeping requirements is in the Housing Maintenance
4 Code provisions of this bill. HPD is working out
5 some of those details. This bill was submitted
6 for preconsideration. And certainly, they'll try
7 to figure it out.

8 I will say, though, that each
9 detector has a useful life. At the end of that
10 useful life, it can't be trusted to be effective
11 anymore. So there needs to be a method of knowing
12 that. A lot of building owners will probably just
13 replace them all at the same time, no matter what,
14 just because it's easier than tracking them.
15 Every six years, or whatever it is, you replace
16 them and that way it's easy. They know on this
17 date everything was replaced.

18 Every building owner can do it
19 differently. If they really, really want to
20 measure each one and have a spreadsheet for every
21 one of the thousands of apartments, that's one way
22 of doing it.

23 COUNCIL MEMBER JACKSON: Now, you
24 had indicated that the Department of Buildings is
25 attempting to work it out. What do you mean by

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that?

JAMES COLGATE: HPD, I said.

COUNCIL MEMBER JACKSON: HPD, what do you mean by that?

JAMES COLGATE: What I will say is that the Housing Department, HPD, is still open to and will be working with the Speaker's Office in terms of working on any little nits that are still in this bill. I mean, you know, that's what I will say.

COUNCIL MEMBER JACKSON: Okay, thank you. Thank you, Mr. Chair.

CHAIRPERSON DILAN: Thank you.

COUNCIL MEMBER JACKSON: But I clearly support this Introduction. Thank you.

CHAIRPERSON DILAN: Thank you, Council Member Jackson. Any other members on the Preconsidered Intro? If not, I have just a few. In the past four fiscal years, how many violations have been written to owners for failure to comply with carbon monoxide detector requirements?

JAMES COLGATE: I don't have that information, but we can get that to you.

CHAIRPERSON DILAN: Okay. What's

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2 the average cost of the carbon monoxide detector
3 equipped with an audible chirp? From what I
4 understand, these are relatively inexpensive
5 items.

6 LT. ANTHONY MANCUSO: The best I
7 could say is the low end would probably be about
8 \$25.

9 CHAIRPERSON DILAN: And the high
10 end?

11 LT. ANTHONY MANCUSO: Probably over
12 \$50-\$60, depending on what the alarm does. Some
13 of them have a readout on them. They tell you how
14 much carbon monoxide is in the room. The less
15 expensive are just an alarm.

16 CHAIRPERSON DILAN: How will the
17 FDNY disseminate information regarding the
18 requirements of this Preconsidered bill to the
19 general public, owners and tenants alike? How
20 will the FDNY get the message out that these items
21 may, in fact, no longer be useful and in turn have
22 the private sector do what must be done to replace
23 these items?

24 LT. ANTHONY MANCUSO: I guess I
25 can't completely answer the question for every

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2 part of it. I know right now there are public
3 service announcements that the private companies
4 have with the FDNY that have been out, talking
5 about the end-of-life with the carbon monoxide
6 alarms. So that's been going on for, I guess, a
7 couple of months now.

8 CHAIRPERSON DILAN: Okay. I have
9 no more questions on this. Do any of my
10 colleagues have anything else on this? If not,
11 we'd like to thank you both, gentlemen, for your
12 time. This item will be laid aside at the
13 conclusion of this hearing.

14 We'll hear Intro 404. For the
15 benefit of the members, both items at the
16 adjournment of this hearing will be laid aside.
17 There will be no vote on either of the items
18 today. We potentially will be taking them up for
19 disposition in the future.

20 So, thank you gentlemen.

21 JAMES COLGATE: I'll stay here.

22 CHAIRPERSON DILAN: Yeah, I figured
23 James was staying. On this item, even though
24 Council Member Jackson referenced it, we did
25 receive testimony for the record from the

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2 Association of Builders of Greater New York and
3 their testimony will be entered into the record in
4 full on that item.

5 Now, we will move to the oversight
6 hearing of Intro 404. Myself and Gale have both
7 made our opening statements. I understand Mr.
8 Colgate has also been joined by a representative
9 from the Mayor's Office of Special Enforcement.
10 You'll get to introduce yourself in a minute. Who
11 will be leading the testimony?

12 KATHLEEN MCGEE: I will. That's
13 Kathleen McGee from the Mayor's Office of Special
14 Enforcement.

15 CHAIRPERSON DILAN: Okay. You have
16 the floor and you can begin your testimony.

17 KATHLEEN MCGEE: Let me get it out
18 first.

19 Good afternoon, Chairman Dilan and
20 members of the Committee on Housing and Buildings.
21 My name is Kathleen McGee and I am the Director of
22 the Mayor's Office of Special Enforcement. I'd
23 like to thank you for the opportunity to be heard
24 today.

25 In November 2006, the Mayor created

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2 the Office of Special Enforcement, known as OSE,
3 by expanding the former Office of Midtown
4 Enforcement. OSE was given expanded, citywide
5 jurisdiction to enhance and coordinate enforcement
6 efforts across City agencies in order to address
7 quality of life issues in all five boroughs,
8 including the illegal conversion of residential
9 buildings into hotels.

10 The proliferation of these illegal
11 hotels was first brought to the attention of the
12 Administration in April 2006 by the Illegal Hotels
13 Working Group, whose members include several
14 sponsors of Intro 404 including Council Members
15 Brewer and Mendez, as well as Council Members
16 Garodnick, Dickens, and Gerson; State Senators
17 Krueger and Duane; and Assembly Members Gottfried,
18 Rosenthal, and Glick.

19 Beginning in the fall of 2006, OSE
20 began handling complaints regarding illegal hotels
21 as part of the City's enhanced enforcement
22 strategy in an effort to facilitate an effective
23 response to this emerging problem. OSE works in
24 partnership with the Department of Buildings, DOB,
25 by investigating complaints of illegal hotels.

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2 Those complaints can come from many
3 sources, including calls to 311, letters and
4 emails from members of the public and
5 communications from elected officials and
6 community groups. Regardless of the source, OSE
7 arranges for an inspection team to visit the
8 premises and attempts to determine whether a
9 violation exists.

10 If it is determined that a
11 violation exists, the appropriate enforcement is
12 taken, which can include issuing DOB violations
13 and Environmental Control Board, ECB, Notices of
14 Violation, known as NOVs. OSE also issues Fire
15 Department and Department of Health violations,
16 where appropriate. When an ECB NOV is issued, we
17 refer these cases to the DOB Administrative
18 Enforcement Unit for prosecution.

19 The problem of residential
20 buildings being improperly used as illegal hotels
21 is of significant concern to the Administration
22 and we have taken an aggressive stance against
23 them. Converting residential units designated for
24 permanent occupancy for use by transient guests
25 creates serious problems for permanent residents.

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2 It limits the supply of available housing,
3 particularly rent-regulated and low-income
4 housing, creates unsafe conditions, diverts
5 services intended for permanent residents to
6 transient guests, and harms the character of
7 residential neighborhoods.

8 In addition to the on-ground
9 investigation and enforcement of illegal hotel
10 complaints, OSE worked over the past two years
11 with DOB, the Law Department, City Planning and
12 Housing Preservation and Development to craft
13 legislation that clarified the terms of transient
14 occupancy for more effective enforcement against
15 illegal hotels. This legislation was signed by
16 Governor Paterson in July 2010 and went into
17 effect on May 1st of this year.

18 This legislation clarified a
19 previously grey area in the law regarding
20 definitions of permanent and transient occupancy,
21 enhancing our ability to enforce against illegal
22 hotel use. Additionally, the City's affirmative
23 civil action against property owners of 3 single-
24 room occupancy, SRO, on West 94th and West 95th
25 Streets in Manhattan, known as the 330 Continental

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2 case, commenced in 2007, and settled in Supreme
3 Court just a few weeks ago. The terms of the
4 settlement permanently enjoins the owners from
5 operating the premises as illegal hotels.

6 Despite the success of our
7 enforcement efforts to date, there are still ways
8 the law can be improved so that our efforts could
9 be more effective. Specifically, the level of
10 penalties that currently exist for illegal hotel
11 violations should be increased. I appreciate the
12 opportunity today to focus on this topic and state
13 the Administration's support for Intro 404.

14 Under current law, the penalties
15 imposed by ECB for improperly using residential
16 buildings as illegal hotels may not even amount to
17 a slap on the wrist. Intro 404 addresses the
18 issue of inadequate penalties by clarifying the
19 circumstances under which such violations will be
20 issued in a separate section of the code and
21 mandating that violations involving more than one
22 unit in a building and repeat violations must be
23 classified as immediately hazardous violations.

24 The minimum civil penalty for an
25 immediately hazardous violation is \$1,000 and the

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2 maximum is \$25,000. However, that is not all.
3 Additional penalties for immediately hazardous
4 violations may also be imposed of up to \$1,000 for
5 each day the violation continues until it is
6 certified as corrected. These mandatory penalties
7 evidence the City's recognition of the seriousness
8 of these violations.

9 We also support the language in the
10 bill--excuse me. We also support the language in
11 the bill that makes it clear that no physical
12 change in the dwelling unit need be observed for
13 it to be deemed converted from permanent to
14 transient.

15 We have a few technical suggestions
16 regarding the language of the bill and will be
17 happy to work with the Council to address these
18 issues. We applaud the Council for taking this
19 important step toward addressing the issue of
20 illegal hotels. I'll be happy to take your
21 questions.

22 CHAIRPERSON DILAN: I do have some
23 concerns about the state law and we could maybe
24 get your opinion on that later, as far as helping
25 encapsulating what you feel the major problem.

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2 I'd like to give the sponsor of the bill the
3 opportunity to lead off with the questions, if she
4 so desires. She'll be followed by Council Member
5 Fidler and Jackson. So Council Member Brewer if
6 you would like to lead off.

7 COUNCIL MEMBER BREWER: Thank you
8 very much. I wanted to know how many hotels you
9 think are in this situation in the City of New
10 York and how many you think, given your staff
11 situation, in any given year you can do
12 inspections of.

13 KATHLEEN MCGEE: Well, I can't
14 really talk as to the number of hotels that I
15 think are out there, but I can give you the number
16 of complaints we've seen this year as compared to
17 other years. I could also talk about the nature
18 of those complaints and then how we address them.

19 So, this year, citywide, including
20 October--we don't have November stats completely
21 plugged in yet--but for 311 complaints citywide,
22 this year we've reached 885 complaints. Since we
23 started tallying complaints in 2006, we've gotten
24 a total of \$2,429 complaints. A complaint can be
25 about an entire building, a complaint can be about

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one unit in a building.

Sometimes complaints don't contain the specificity that is going to allow for a full inspection. For example, if a complaint comes in on an address with 100 units in a building, but does not list the unit, it becomes very labor intensive and prohibitive to investigate every single unit and knock on every door to get a response in order to conduct a proper investigation. That I think would be true of any complaint to any agency, without specificity.

So we have no idea of those complaints, though, for 2011, for this year. Our office has conducted 885 separate investigations, which were inspections. We've issued 1,596 violations. And we have, with the Department of Buildings, executed 49 vacates, either partial or full, on properties around New York City.

COUNCIL MEMBER BREWER: Do you find that in--

CHAIRPERSON DILAN: [interposing]
I'm sorry. Could you just repeat the number of vacates again?

KATHLEEN MCGEE: Forty-nine.

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CHAIRPERSON DILAN: In this year?

KATHLEEN MCGEE: This year.

CHAIRPERSON DILAN: So far. Thank you. Could you also just restate the number of violations?

KATHLEEN MCGEE: Sure. I'll go through the numbers on 2011 and then numbers total since--

CHAIRPERSON DILAN: [interposing] Yes, just restate it. I know you answered it but counsel has to get it down.

KATHLEEN MCGEE: Sure, no, that's fine.

CHAIRPERSON DILAN: So that we have it recorded properly.

KATHLEEN MCGEE: So, in 2011, the Mayor's Office of Special Enforcement has received 885 311 complaints. We have conducted 487 inspections. We have issued 1,596 violations. We have, with the Department of Buildings, executed 49 partial or full vacate orders based upon those inspections.

CHAIRPERSON DILAN: Okay. Council Member Brewer?

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2 COUNCIL MEMBER BREWER: My other
3 question is have you found--I mean I do think that
4 the situation in Cypress Hills where an office was
5 killed is horrific. It looks like that individual
6 owner, I couldn't tell, according to the newspaper
7 he had not paid his fines.

8 So I'm just wondering if we pass
9 Intro 404, which of course I hope we do, could you
10 be specific as to how, particularly health and
11 safety, could be positively impacted if you think
12 that's appropriate, with this kind of legislation?
13 It did seem to me that I do hear that cost of
14 business is what exists now.

15 I hope that that individual
16 building in Cypress Hills is not typical of what
17 we're seeing. I don't know. I'd like to hear,
18 health and safety issues, how you think this bill
19 would assist in providing better health and
20 safety.

21 KATHLEEN MCGEE: Well, obviously,
22 that was absolutely a horrific situation.

23 CHAIRPERSON DILAN: That's in my
24 district. We've been dealing with that. But I'm
25 certain that that's an illegal hotel. It's an

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2 illegal conversion, clearly.

3 KATHLEEN MCGEE: Exactly. The
4 Mayor's Office does have a joint task force that's
5 addressing the issue of illegal conversions
6 separate and apart from the what the New York's
7 Office of Special--

8 [Crosstalk]

9 KATHLEEN MCGEE: But I do think
10 that as stated generally in the statement that I
11 gave, the increase in fines can only help to make
12 a pointed statement to those people who are
13 consistently engaging in operating illegal hotels,
14 that safety is paramount and consequently the
15 fines should be taken seriously.

16 COUNCIL MEMBER BREWER: Can you
17 just be a little bit more specific? I don't think
18 everybody understands what a hazardous violation
19 is. I know that that's how you're defining. What
20 is a hazardous violation? I'm not sure that the
21 public understands that that's how the threshold
22 is met.

23 KATHLEEN MCGEE: I'm going to
24 introduce Renaldo Hylton, who is also with the
25 Department of Buildings. Between he and James

1
2 Colgate, from the Department of Buildings, I think
3 they're better attuned to addressing technically
4 what an immediately hazardous violation is.

5 RENALDO HYLTON: Good afternoon.
6 My name is Renaldo Hylton. I'm the Director of
7 Administrative Enforcement for the Department of
8 Buildings.

9 The code defines immediately
10 hazardous violations as one that poses a severe
11 risk to public safety, to health, safety in the
12 general public and also one that requires
13 immediate corrective action, also, can classify
14 violations as immediately hazardous for those that
15 would present an economic disincentive to that
16 action.

17 So, for example, in outdoor
18 operating signs, for example, the cost of doing
19 business, I mean making a violation a lower
20 classification because it's not immediately
21 hazardous could just be written off as a cost of
22 doing business. So you're also allowed to make
23 something immediately hazardous to reduce the cost
24 of doing business.

25 COUNCIL MEMBER BREWER: The other

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2 question I have is in the state bill there were
3 provisions made for people who want to go away for
4 the summer, a teacher for instance. Can you just
5 talk a little bit about that? I think the public
6 often thinks that we're going to be dealing with
7 that issue and I think we're thinking that's not
8 correct. So I'm just wondering if you could help
9 us understand the teacher who goes away for the
10 summer and wants to sublet her apartment.

11 JAMES COLGATE: I'll address that,
12 James Colgate, Buildings Department. The issue
13 you raise is not about this bill, what it is about
14 is the state law that amended the multiple
15 dwelling law. It describes what transient
16 occupancy is versus permanent residence purposes.

17 What it says, and I'm paraphrasing
18 a little bit, that permanent residence purposes
19 allows certain types of use of your apartment
20 without making it illegal, without making it
21 transient. It's pretty clear when you read it.
22 But then again, I'm a lawyer, so I like that kind
23 of reading.

24 What it basically is, is if were to
25 sublet it for 30 days or more that's perfectly

1
2 okay. If I want to sublet it for less than 30
3 days and I want to accept monetary payments for
4 that subletting, that is not allowed. If I want
5 to do a home exchange or I want to let people stay
6 there while I'm away, with no monetary
7 compensation that is permitted.

8 There are other allowances so that
9 if I am living there and I am in the apartment
10 while I have guests coming and going, that's also
11 permitted, even if I collect money from them.
12 That's called a roomer, boarder or lodger under
13 the Housing Maintenance Code and that's been on
14 the books since forever and you're always allowed
15 to do that.

16 So there are a lot of permutations
17 that are certainly very, very legal within the
18 construct of this law but which do not, in the
19 eyes of the Multiple Dwelling Law amendment create
20 the kinds of conditions that the State Legislature
21 was trying very hard to prevent.

22 COUNCIL MEMBER BREWER: Thank you
23 for that very succinct clarification, which is
24 typical of you, sir.

25 JAMES COLGATE: Thank you.

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2 COUNCIL MEMBER BREWER: Always
3 excellent. The final question, for the Mayor's
4 Office, is once a violation is issued, how soon
5 thereafter can a second violation be issued? I
6 know you talked about that for ongoing violations
7 that are not corrected. Is there some kind of
8 average amount of time, even under the current
9 law, which doesn't include these fines?

10 KATHLEEN MCGEE: Just one moment.
11 I just wanted to seek clarification. There is no
12 prohibition against going back out immediately and
13 issuing a second violation should the condition
14 persist after issuance of the first violation to
15 the owner or to the person who is properly served.
16 How often does that happen is a different question
17 altogether, and that depends on the nature of
18 whether we're getting another complaint. We are
19 complaint-driven.

20 We do go back and check on
21 buildings after we have issued violations,
22 particular those that we found to pose a higher
23 level of risk to life or safety. Vacated
24 buildings, for example, are one of them, full and
25 partial. We make a point of going back to those

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2 regularly just to check on compliance. We also
3 follow up on locations and mandate that after they
4 have certified correction with the Department of
5 Buildings, the Mayor's Office of Special
6 Enforcement, in fact, often goes back out just to
7 ensure through a spot safety check that things
8 have been complied with.

9 CHAIRPERSON DILAN: Gale, can I
10 jump in for a second?

11 COUNCIL MEMBER BREWER: Go ahead.

12 CHAIRPERSON DILAN: I just want to
13 seek clarification. Mr. Hill, is that correct?
14 Did I hear correctly when you responded to an
15 earlier question about the current statute in
16 terms of owners who do this as a cost of doing
17 business and accept the current penalty structure
18 as a cost of doing business? Did you say that you
19 have the ability currently to increase fines in
20 these instances? Did I understand that correct?

21 RENALDO HYLTON: No. Councilman,
22 I'm sorry. You may have mistaken me. I said that
23 you are allowed--meaning the Council can make an
24 immediately hazardous condition.

25 CHAIRPERSON DILAN: Okay. We took

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2 it as the Buildings Department--and I was about to
3 say well what are we doing here. All right, so
4 I'm glad we cleared that up. Council Member
5 Brewer, I'm sorry.

6 COUNCIL MEMBER BREWER: That's
7 okay. The last question is one of the issues I
8 think is we have tourists, we have permanent
9 residents and I'm just wondering if in your
10 experience have you done a lot of vacates of
11 buildings that are completely tourist and supposed
12 to be SROs, has it been a mixture? Is there any
13 kind of an ongoing analysis of this? Or that's
14 maybe not something that you've done?

15 In other words, have there been
16 full vacates of the 49 vacates in 2011? Or have
17 there been situations where there have been some
18 units in a large building? Just to give us some
19 idea of what we're looking at in terms of the area
20 of concern, with the 49 vacates?

21 KATHLEEN MCGEE: Absolutely. I
22 don't have a breakdown of full and partial.

23 COUNCIL MEMBER BREWER: Just
24 general.

25 KATHLEEN MCGEE: But I can tell you

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2 anecdotally that this year alone I would say over
3 50 percent of our vacates have been full vacates.
4 On those opportunities where a building is being
5 held hostage by a runner of an illegal hotel
6 property, it's generally overcrowded safety
7 issues. If we do find permanent residents, we
8 make all best efforts to maintain their viability
9 in that property and simply try to make sure that
10 the portions of the building that are unsafe are
11 made safe immediately.

12 COUNCIL MEMBER BREWER: Mr. Chair,
13 maybe I'll have questions later, but I know there
14 are others who have questions.

15 CHAIRPERSON DILAN: Thank you,
16 Council Member Brewer. Council Member Fidler,
17 followed by Jackson.

18 COUNCIL MEMBER FIDLER: Thank you,
19 Mr. Chairman. I have a number of questions
20 because quite frankly I find all of this kind of
21 confusing. I'm just a humble country lawyer from
22 Brooklyn. I'm reading the bill and I don't see--
23 which section of the bill raises the fines because
24 there's absolutely no--the word fine doesn't
25 appear anywhere in the bill. So I want to

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understand how this is working.

RENALDO HYLTON: Actually, what the bill doing is actually making this infraction an immediately hazardous violation which would trigger the maximum penalty allowed, which is \$25,000.

COUNCIL MEMBER FIDLER: So we're raising the maximum penalty from about \$800 to about \$25,000? Is that what we're doing?

CHAIRPERSON DILAN: The penalty structure would kick in under the penalty structure that currently exists under the Building Code.

RENALDO HYLTON: Actually, I don't believe that \$800 is the maximum penalty. I think \$800 is a standard penalty that would be applicable if a respondent be found in violation at a hearing. But the maximum penalty should they default or if they ignore the violations, then we issue repeat violations, it could go up to \$10,000 presently.

COUNCIL MEMBER FIDLER: Could.

RENALDO HYLTON: But not if you go to court.

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2 COUNCIL MEMBER FIDLER: But, I mean
3 obviously the intent of this legislation is
4 specifically stated to raise the fines for--

5 JAMES COLGATE: [interposing] Let
6 me put it into country lawyer speak. I don't know
7 if I can do that. So we have a scheme and it's
8 hard to understand this bill because it excerpts
9 out a few things and says amend this little
10 provision, add a thing here. But when you put it
11 into the scheme and see how it works, we have a
12 system that has these immediately hazardous
13 violations, which are violation, which as he
14 explained which have certain characteristics to
15 them, which are safety related and all that stuff,
16 or anything on this list. The Council starts
17 adding.

18 Over the years, since we enacted
19 it, the Council has added a number of things, and
20 they've thrown things onto this list. Once it's
21 on that list, it becomes, per se, immediately
22 hazardous, whether or not there was a hazard or
23 not. A big billboard sign is not necessarily
24 hazardous in what you would think it means, but
25 it's on the list.

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2 COUNCIL MEMBER FIDLER: Clearly,
3 "illegally hazardous" has become a term of art and
4 not a definition.

5 JAMES COLGATE: Yes. What this
6 bill does is put that on the list.

7 COUNCIL MEMBER FIDLER: So I get
8 that. But if the standard fine now is \$800 and
9 you're looking for the ability to wax them for
10 \$25,000, I mean that's a modest increase of 3100
11 percent.

12 JAMES COLGATE: Modest.

13 COUNCIL MEMBER FIDLER: Well, yeah,
14 you're chuckling. One thing that we do really
15 well in this city, apparently in the Bloomberg
16 Administration is raise fines. We tend to balance
17 the budget on that. It's not something that I'm
18 terribly fond of. I want to understand what we're
19 doing.

20 You know, we had a hearing on this
21 subject before the state law changed and it was
22 confusing as hell. You just testified, Deputy
23 Commissioner, that there are so many permutations
24 here. So I'm a little bit worried about whacking
25 someone for \$25,000 for something that may not be

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2 clear.

3 JAMES COLGATE: Do you want to
4 describe how you get to the 25 and where it really
5 starts and how it works?

6 RENALDO HYLTON: That's right.
7 Councilman, what we're asking is the ability to
8 institute a fine that could amount a maximum of
9 25.

10 COUNCIL MEMBER FIDLER: The fine's
11 not in your discretion.

12 RENALDO HYLTON: That's right.

13 COUNCIL MEMBER FIDLER: The fine is
14 in discretion of an ECB judge.

15 RENALDO HYLTON: Correct. We would
16 have to then actually make an assessment. To make
17 a violation immediately hazardous, by quote, it
18 can't be below \$1,000, where as it stands now it
19 could be as little as zero.

20 If a violation of this condition
21 were to be immediately hazardous, it means we
22 could not go below \$1,000 and we could make it as
23 much as \$25,000. Normally we don't make a
24 violation \$25,000. We still have to go through a
25 penalty promulgation process which, you know, in

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2 the rule. We'd have to change our rules and we'd
3 have to go to ECB and request the penalty for this
4 and they have to promulgate rules. The penalty is
5 just not the Department of Buildings' doing. We
6 couldn't go below \$1,000, but we'd still have the
7 ability to make it as much as. But none of our
8 penalties are the maximum.

9 COUNCIL MEMBER FIDLER:

10 Nonetheless--

11 RENALDO HYLTON: [interposing] Or
12 start at the maximum.

13 COUNCIL MEMBER FIDLER: --we pass a
14 piece of legislation, we're authorizing you to go
15 out and do something. I want to be sure that I'm
16 authorizing you to do something that's fair. Your
17 judgment of fair and my judgment of fair may
18 differ. So that's the concern I'm raising.

19 I want to understand a little bit
20 of how this bill actually works in the street. So
21 you get a complaint and you go and do what?

22 KATHLEEN MCGEE: I'll answer that.
23 So that Mayor's Office of Special Enforcement has
24 a Mayor's task force which is comprised of a fire
25 prevention inspector, an inspector from the

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2 Department of Buildings and NYPD. We respond to
3 the location, if there's specificity to the
4 complaint. As I've described earlier, if it's
5 that the entire building is being used de facto as
6 an illegal hotel or what's commonly coined a
7 hostel, it makes it a lot easier to conduct an
8 inspection than if it's a 100-unit building
9 alleging an unspecified unit, just one apartment
10 in the building. That would be a complaint that
11 we would find a hard time conducting an inspection
12 on.

13 So, we respond to the complaint
14 hoping that there is some specificity or waiting a
15 follow-up seeing if we can do some investigation
16 to find out. When we get there, protocol and
17 rules established mandate that we actually observe
18 the violation. If it's observed--let's say I
19 observe 49 out of 50 or 100 percent of the units
20 in a three to five-story walkup in Fort Greene,
21 for example, as being occupied as a--I live there
22 too--as being occupied as a hostel for--

23 COUNCIL MEMBER FIDLER:

24 [interposing] How does one observe that?

25 KATHLEEN MCGEE: Because you see 12

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2 bunk beds in what used to be the living room. You
3 see another six bunk beds in what used to be the
4 bedroom. The kitchen has been converted into four
5 bunk beds.

6 COUNCIL MEMBER FIDLER: How about
7 something much simpler where it's just one person
8 to the unit? Listen, nowadays I mean people share
9 studio apartments as permanent housing.

10 KATHLEEN MCGEE: Sure. In a less
11 obvious--

12 COUNCIL MEMBER FIDLER: There are a
13 couple of beds in a studio apartment, how does one
14 then know that it's being used illegally?

15 KATHLEEN MCGEE: We look for
16 indicia of transient use. That would be
17 interviewing the occupants of the unit. Do they
18 have a lease? How long have they been here? We
19 look for suitcases. We sometimes look for
20 registration belonging to the management that has
21 the lists of when people have come and left, where
22 they're from and how many nights they're staying.

23 If we observe a condition, a unit
24 that's being occupied for less than 30 days, the
25 owner of the property is issued a violation for

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2 illegal occupancy. And any other--

3 COUNCIL MEMBER FIDLER:

4 [interposing] So let me stop you for a second.

5 KATHLEEN MCGEE: Sure.

6 COUNCIL MEMBER FIDLER: That begs
7 two questions. First, again, my understanding of
8 the law is you're permitted to rent for 30 days or
9 more. Is that correct?

10 KATHLEEN MCGEE: Yes.

11 COUNCIL MEMBER FIDLER: That's
12 lawful and it doesn't fall under this bill.

13 KATHLEEN MCGEE: Right.

14 COUNCIL MEMBER FIDLER: So I mean
15 that's kind of a fine distinction in talking about
16 "I see suitcases." Well I'm renting for 30 days.
17 Well no, you're not, you're renting for 29. How
18 do you make that determination? Again, we're
19 talking about a pretty severe fine here. So how
20 does one make that distinction?

21 KATHLEEN MCGEE: I think if you're
22 talking about a situation where it's 29 to 30
23 days, I mean you're talking about a hypothetical
24 that I'm not--

25 COUNCIL MEMBER FIDLER:

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[interposing] It's all hypothetical right now.

KATHLEEN MCGEE: --prepared to address. Well, I can tell you about the reality of what we're seeing on the ground which is far less than 30 days, with people who verbally tell us that they're here from Amsterdam or Germany of France or Oklahoma. They show us the terms of their short stay. Then there are also the visual indicia of transient--

COUNCIL MEMBER FIDLER:

[interposing] I mean that's an easy one. The person--

KATHLEEN MCGEE: [interposing] And those are the ones that we get--

COUNCIL MEMBER FIDLER: --occupying the unit is confessing.

KATHLEEN MCGEE: Yeah, well, sure.

COUNCIL MEMBER FIDLER: Right.

KATHLEEN MCGEE: Those are the ones that we're getting.

JAMES COLGATE: So I just want to put it into perspective. So, I mean, yes, these laws are on the books and the ones that are going to be 311'd and get to Kathleen are the bad ones.

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2 The ones that are just a little bit here and
3 there, people don't complain normally. That
4 doesn't happen. It's not what gets attention.
5 It's not what gets people calling us and
6 complaining about.

7 If someone did call and complain
8 and it was a borderline case, it's all presented
9 to an ECB judge as to what the evidence is. If
10 the evidence isn't strong enough, we can't issue
11 the violation, we can't move forward because it
12 doesn't work.

13 KATHLEEN MCGEE: That's correct.

14 JAMES COLGATE: There are checks
15 and balances built into the system such that what
16 she gets and what we are enforcing under this law
17 currently, albeit with the reduced fines and not
18 these increased penalties, is the bad cases, that
19 what we're dealing with. I mean that's the--

20 COUNCIL MEMBER FIDLER:

21 [interposing] But I'm not seeing a distinction in
22 the law between the bad cases and the rest. Now
23 let me ask you, I'm Jones and I own a building in
24 Fort Greene. My tenant Smith decides that they're
25 going to rent out the place for two weeks at a

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2 time while they're back in Ohio for summer
3 vacation from school. What is it my problem as
4 the owner of the building? Why do I get this
5 severe fine?

6 JAMES COLGATE: Your hypothetical
7 is that someone has actually--

8 COUNCIL MEMBER FIDLER:
9 [interposing] A tenant.

10 JAMES COLGATE: A tenant has
11 subleased for money for less than a month.

12 COUNCIL MEMBER FIDLER: Correct.

13 JAMES COLGATE: Right. The way the
14 statutory scheme is worded, in most of the
15 Administrative Code, the owner ends up having the
16 violation. And then there's obvious contractual
17 issues between that tenant, the over tenant and
18 the landlord. There are always going to be
19 issues. You know, they're going to have to come
20 to some agreement on how to deal with it.

21 COUNCIL MEMBER FIDLER: But Smith
22 my tenant may do this a couple of times and
23 apparently you can go out the next day and the
24 condition has persisted and I could now become a
25 repeat violator, right?

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KATHLEEN MCGEE: Theoretically.

COUNCIL MEMBER FIDLER:

Theoretically, right?

KATHLEEN MCGEE: But you would have to have someone who was narcing on your other tenant.

COUNCIL MEMBER FIDLER: Why can't this bill be written so that we are actually trying to get at the people who are truly the bad actors and not just drag this wide net that gets everybody? Look, you know, if you were telling me we're talking about raising the fine from \$800 to \$1,000 or whatever, you know that's not so consequential. It's not that big a change.

The stick that you're asking to wield here is enormous. I mean \$25,000 can be an enormous hurt. You know, if you can go out on consecutive days, essentially for the same violation and because maybe someone at DOB doesn't particular care for somebody, they seek a draconian remedy, you know someone is going to have to hire a lawyer to go and defend that.

JAMES COLGATE: So let me address that. I mean I can see how that is a real

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2 concern, but I'm going to ask Mr. Hylton here to
3 explain how the scheme works. Once you get on the
4 list, you know subdivision 16 is more than one
5 dwelling unit or repeat violations. If you have
6 that condition and you become immediately
7 hazardous, then you go through an administrative
8 process whereby we establish penalty schemes.

9 In the same manner that we have
10 when you are doing an illegal conversion, for
11 instance, from a one-family house to a five-family
12 house. I don't know if this is number 15 or 14 on
13 the list, but it was added to the list and it's
14 there. We went through a process where we
15 established a penalty scheme. Why don't you go
16 through that as an example of how that would work?
17 It wouldn't mean that one guy from Oklahoma goes
18 away, two weeks, all of the sudden \$20,000. That
19 will not, cannot, absolutely would never happen.
20 Mr. Hylton, could you explain?

21 RENALDO HYLTON: Sure. For
22 example, right now an immediately hazardous
23 illegal conversion which is defined by law as a
24 one or two-family home converted to four or more,
25 meaning it wasn't a multiple dwelling before but

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2 it now becomes a multiple dwelling based on
3 subdivisions and so on.

4 At present, it starts at a standard
5 penalty which is kind of congruous to the \$800
6 that you referred to. It's actually a \$2,400
7 penalty standard.

8 JAMES COLGATE: Can in interrupt
9 you for a second?

10 RENALDO HYLTON: Yes.

11 JAMES COLGATE: So before that law
12 was added in, it would have been that \$800
13 standard penalty. Once it's on the list, it has a
14 range of a minimum of \$1,000, no less, no higher
15 than \$25,000 and the penalty scheme that was put
16 together has as its minimum \$2,400. Because
17 during the penalty scheme hearing process that we
18 went through for the ECB hearings, that was deemed
19 to be an appropriate level for going from a one-
20 family house to a four or five-family house.

21 Now, the penalty scheme that gets
22 put into place for this--I mean you're giving us
23 the authority. We'll go through the public
24 hearing process and do the rule making and all
25 that stuff. We'll take into account so that

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2 someone who is just away for the weekend and the
3 guy comes up twice, you know you get twice, and
4 that person is going to get hit with \$25,000, it
5 won't happen.

6 COUNCIL MEMBER FIDLER: What if
7 there are six months in between and it's a
8 different tenant in the building that does it to
9 the landlord? Now I'm a repeat violator because
10 Smith did it one day and Jones did it six months
11 later, because Smith made so much money. Smith
12 doesn't bear any repercussions for this right?

13 JAMES COLGATE: Right.

14 COUNCIL MEMBER FIDLER: Smith gets
15 to keep the money and laugh, right?

16 JAMES COLGATE: So why don't we let
17 Mr. Hylton go through now the single family to
18 four family example and then the penalty scheme
19 that can be created addresses those types of
20 things. So go ahead.

21 RENALDO HYLTON: Sure. As James
22 just mentioned, we start at what we think is a--we
23 recommend to the ECB board. The commissioner
24 recommends to the board what he thinks is a
25 standard penalty that is suitable for this type of

1 violation. That would basically serve as the
2 deterrent to the infraction.
3

4 For example, right now for a one or
5 two-family home converted to four or more or any
6 amount, 10 or 15 additional families, we start
7 that penalty at \$2,400 standard. Meaning if
8 you're found in violation, you come to a hearing
9 and say I'm guilty, I have no defense or if a
10 judge finds you in violation, it's \$2,400.

11 The default penalty, meaning if you
12 don't appear at all, if you ignore the violation,
13 it goes to \$12,000. And you can always go back to
14 ECB and say I missed my hearing, I want to reopen
15 it. You have that opportunity.

16 An aggravated, which is the second
17 offense or more, if we go back within that three-
18 year window and find you had been charged with the
19 same violating condition within the past three
20 years--

21 COUNCIL MEMBER FIDLER:

22 [interposing] These are all immediately hazardous
23 conditions you're talking about, right?

24 JAMES COLGATE: Yes.

25 RENALDO HYLTON: That's right.

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2 JAMES COLGATE: It has to be on the
3 list.

4 RENALDO HYLTON: That's right.
5 That would be from \$2,400 to \$6,000. This is in
6 the one that we have right now. If you default on
7 an aggravated violation, a default on what we call
8 a repeat or second offense violation, it becomes
9 \$12,000.

10 It doesn't get to \$25,000 unless
11 that resulted in some injury to someone. It's
12 called an aggravation two violation, meaning that
13 because you leased or subletted the apartment, if
14 someone slipped, fell, whatever and broke a leg,
15 or something like that and the Department of
16 Buildings can prove that, it becomes an aggravated
17 two violation and that violation, the default of
18 it, meaning that you don't appear, you ignore it
19 altogether, is the maximum allowed by law, which
20 is the \$25,000.

21 So there are increments. No one is
22 going to get hit with \$25,000. But in order for
23 us to get to that maximum--

24 JAMES COLGATE: [interposing] So
25 let me put that into perspective. To get to--we

1
2 call it ag two--to get to aggravated two default,
3 which means that you have done your one family to
4 four family or more and you have a repeat a couple
5 of times and there's a fire and someone dies, we
6 hit you with the ag two and you don't show up in
7 court, that's \$25,000.

8 You get to the end when there are
9 problems. You don't get there in the beginning.
10 When we make a recommendation to the ECB asking
11 them to approve a penalty scheme, it has to
12 account for someone who just did it once
13 accidentally, someone who does it a couple of
14 time, someone who's doing it again and again. And
15 the penalty scheme--

16 COUNCIL MEMBER FIDLER:

17 [interposing] Where do your rules account for--
18 unless I'm totally misunderstanding the bill--
19 account for the fact that in the hypothetical that
20 I gave you that it was being done by a tenant and
21 not by the landlord?

22 JAMES COLGATE: I can, right--

23 COUNCIL MEMBER FIDLER:

24 [interposing] It can. It's the landlord's
25 violation no matter what. They screwed up, they

1
2 rented to two people that broke this law, they get
3 the violation and they become the aggravated
4 repeat offender because it happened twice in the
5 space of x number of years.

6 CHAIRPERSON DILAN: So just to
7 clarify, the bill before us does give them the
8 discretion to levy against owner or tenant. It
9 does give them the ability to do both, on page
10 ten.

11 COUNCIL MEMBER FIDLER: Okay.

12 JAMES COLGATE: Oh, it does.

13 COUNCIL MEMBER FIDLER: You guys
14 didn't even seem to know that. How often do you
15 levy against the tenant?

16 KATHLEEN MCGEE: This would be a
17 new provision, so--

18 COUNCIL MEMBER FIDLER:
19 [interposing] This would be a new provision. I
20 know there are other people who have questions and
21 I don't want to go on too long. I just want to
22 say this. I don't have, and I mean no disrespect,
23 the greatest enthusiasm for the manner in which
24 the Buildings Department enforces things. Things
25 that are open and flagrant wind up remaining open

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2 and flagrant.

3 You know, for crying out loud, you
4 can file plans for a greenhouse, build walls on
5 it, have it standing out there on the street,
6 issue one violation and you can't get rid of the
7 greenhouse. It's like, okay, it cost me \$10,000,
8 I have a greenhouse that I'm not allowed to have.
9 It's a violation of the code. I don't have a
10 great deal of faith in how this is going to work.

11 I would be a little bit more
12 comfortable if these rules that you're going to
13 promulgate as a result of this piece of
14 legislation, should we pass it, were actually in
15 the bill so that we knew exactly what your
16 marching orders were and weren't and there wasn't
17 that kind of discretion within the Department of
18 Buildings.

19 I have seen that discretion, in my
20 view, used and abused and not used when it should
21 be used. So I am a little uncomfortable with the
22 way this bill is written now. I would hope that
23 we can work on some of those issues.

24 CHAIRPERSON DILAN: I guess Council
25 Member Jackson will be next. Just for some of us

1
2 who don't represent Manhattan district, so maybe I
3 should have done this at the outset. Help me
4 encapsulate what the problem is that you're seeing
5 in general with the use of illegal hotels. I
6 think Gale alluded to why it's a burden when it
7 coexists with residential buildings. I could see
8 how that could be a burden. But, I guess, help
9 encapsulate the problem for us; I think it'd lead
10 to a better understanding of what we're attempting
11 to do.

12 KATHLEEN MCGEE: I'd love to give
13 you some statistics from 2006 through this year.

14 CHAIRPERSON DILAN: Well, it
15 doesn't have to be numbers, just a handle of the
16 problem--

17 KATHLEEN MCGEE: [interposing]
18 Anecdotally, so that you have an idea of where
19 we're seeing the vast majority of the problem as
20 well as how the problem comes in to us through the
21 various complaint mechanisms.

22 So back in 2006, when we undertook
23 this endeavor, our total complaints through 311
24 alone were 91. Again, this year, as a recap, it
25 was 885. We've seen a total, just through 311

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complaints, of 2,429 complaints.

We have seen complaints just this year in all five boroughs. Predominately, it's Manhattan, followed by Brooklyn. Even Staten Island has had a few. I would say that the vast majority of the complaints, when they come with some specificity, often come through 311 with follow-up phone calls directly to myself, either by email or by phone, from electeds, from many of the advocacy groups representing tenants here today.

The city works as an administration very hard to strike a balance between the development and tourism that we really value in the city with the safety and affordable housing and tenant concerns that I hear about on a daily basis. I'm working to encourage both sides.

When we get the complaints, particularly in Manhattan and Brooklyn, especially--I have a team of 15 people. Three of those are attorneys, so they're not even going out in the field. I occasionally go out in the field with a team because I want to have an idea of the types of complaints that we're seeing and the

1
2 results of our inspections, so that I can talk
3 openly and directly about what we're seeing on the
4 ground.

5 By the time we get out to some
6 complaints, we have received, in say a four month
7 time span, five complaints on a property. And by
8 the time I get out there and I've spoken to
9 somebody about that situation, they're impacted
10 not just because they don't like to have a tourist
11 staying next to them but because of several of the
12 types of conditions that Council Member Brewer was
13 describing earlier: vomit in the hallway, not
14 being able to sleep at night, overcrowded
15 conditions, people not able to use their own
16 elevators, fires on the roof, and so on.

17 JAMES COLGATE: I don't mean to
18 interrupt but I will just a second. There's
19 something else that Council Member Brewer didn't
20 mention which for the Buildings Department is a
21 really important aspect of why the State
22 Legislation was so important and why the
23 enforcement of that law is also so important,
24 which is the fire safety issue in parts of this.

25 I mean, in our Building Code, we

1
2 have much more stringent fire safety requirements,
3 egress requirements, sprinkler requirements, fire
4 alarm requirements when you have people staying
5 there for day or two or short term. Transient
6 occupants, they come, they go, they come, they go.
7 They don't know the building. They don't know
8 where the exits are. They don't want to, they
9 just want to come and they want to go.

10 The Building Codes across the world
11 understand that and ascribe much more stringent
12 requirements to those buildings.

13 CHAIRPERSON DILAN: Just for the
14 purposes of time--

15 JAMES COLGATE: [interposing] Oh,
16 I'm sorry.

17 CHAIRPERSON DILAN: --I'm going to
18 go to Council Member Jackson. I just think in
19 that brief chance that you had to encapsulate what
20 the problem was; I don't think you hit a homerun
21 with it. But I'm pretty sure that some that will
22 follow and some of the people who are here to
23 testify will encapsulate what their problems are
24 to help us better understand why you guys want
25 this bill.

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COUNCIL MEMBER FIDLER: Mr.

Chairman, if I could--

KATHLEEN MCGEE: [interposing] I'm

sorry, I thought that--

COUNCIL MEMBER FIDLER: If I could,

I just want to say I understand completely what the issue is and why people would be unhappy. I just want to be sure that when we hand a club of this size to the Buildings Department that it's wielded fairly.

CHAIRPERSON DILAN: I'm sorry that

you got the impression that I thought that you didn't understand. I'm just doing it from a general sense to help even myself better understand what we're doing.

KATHLEEN MCGEE: And I'm sorry if I

misunderstood the question. I thought you were talking about the types of the complaints and the general lay of the land.

CHAIRPERSON DILAN: No, no--

KATHLEEN MCGEE: [interposing] If

the question is--

CHAIRPERSON DILAN: Just in a

general sense why are we--

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2 KATHLEEN MCGEE: [interposing] In
3 the general sense why it is that we're supporting
4 this bill, it's because when I get repeat offender
5 complaints and I go out and inspect multiple times
6 and find the same offenders operating the same
7 locations in the same way despite getting a
8 violation for even a second offense, it is clearly
9 just simply a cost of doing business for them.
10 The violation itself isn't impeding the business.
11 It is disrupting the neighbors. Consequently, I'm
12 getting more complaints and having to go back out.

13 It is also impacting the safety of
14 the very building in which the activity is taking
15 place. If there was a mechanism, by classifying
16 it as immediately hazardous by which the city
17 could levy a stronger penalty for those operators--
18 --not a one-time operator--but serious habitual
19 business operators of illegal hotels and
20 residential properties, the city would have a much
21 better opportunity to enforce the law.

22 CHAIRPERSON DILAN: We'll go to
23 Council Member Jackson and when it's my turn, I'll
24 come back to the question. Council Member
25 Jackson?

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2 COUNCIL MEMBER JACKSON: Thank you,
3 Mr. Chair. In fact, let me just say from the
4 beginning I support Intro 404. In my opinion,
5 based on everything that I know, and my district
6 is northern Manhattan. I've heard Gale Brewer,
7 the primary sponsor of this bill, talk about the
8 situation on the Upper West Side. I've heard
9 residents speak about people coming in and out,
10 the noise and all of that stuff. I know that
11 illegal conversions are death traps. Let me just
12 say that.

13 I remember loud and clear when
14 those two firefighters jumped out the window in
15 the Bronx and were killed as a result. They were
16 put up on charges, for criminal charges, not them,
17 but the landlords or the owners or the
18 superintendent or the manager because the
19 apartments that they were in, fighting a fire,
20 were an illegal conversion. They had separated
21 the apartment into other rooms. That causes a
22 problem when you're dealing with fighting fires.

23 Even though what we're talking
24 about--I was just reading the paper today and it
25 happens to be in the district where the police

1
2 officer was killed--my understanding in reading
3 the paper was it was an illegal conversion and
4 that the robbers tried to run out the back door
5 and there was no back door. Thus, they were like
6 rats in a corner and having to run out the front
7 door and hide. That caused, in my opinion as a
8 lay person--I'm not an engineer, I'm not DOB--I'm
9 reading what I understand to be the facts. In my
10 opinion, if that was not an illegal conversion,
11 they may not have been in the basement for one
12 thing. But if there was a back door, those
13 robbers would have got out.

14 Anyway, I feel that the fines are
15 not heavy enough. In fact, if you can fine
16 vendors on the street that's vending food, \$1,000,
17 hello, for repeat violations of a food license,
18 those individual owners, renters, whoever they
19 are, I don't care who they are. If they're
20 running illegal conversion hotels, apartments and
21 what have you, and they think that this is a cost
22 of doing business, then you need to bring them up
23 on criminal charges. Criminal charges, in my
24 opinion.

25 [Applause]

1
2 COUNCIL MEMBER JACKSON: I may be
3 wrong. I may be wrong. Mr. Chair--

4 CHAIRPERSON DILAN: [interposing]
5 Council Member, I want to ask you to come to a
6 question please?

7 COUNCIL MEMBER JACKSON: And I will
8 come to a question, but I need to preface that
9 with the fact that my feelings about these illegal
10 conversions and the impact, especially when
11 people--you know, people may say well it's not a
12 hazardous situation. If there's a fire and a
13 firefighter goes in there and gets killed, that
14 means someone has died.

15 So my question to you, do you feel
16 that these illegal conversions, absent of a fire
17 or someone running in, that someone can get hurt
18 as a result of that if there's a fire or things
19 like that? Should it be raised to a criminal
20 offense where the repeat violations, the fines
21 have no impact on making the change? That's what
22 my question is to DOB and to anyone else that's up
23 there.

24 JAMES COLGATE: I guess what I will
25 say, the Intro before you is to increase the

1
2 penalties through ECB. Now, if there were, let's
3 say a fire, some big problem, someone died.

4 COUNCIL MEMBER JACKSON: A
5 hypothetical situation--

6 JAMES COLGATE: [interposing]
7 That's not hypothetical, it has happened. The DA
8 always gets involved and they will bring criminal
9 charges against the owner for--what is that,
10 criminal negligent homicide or whatever--that
11 happens. It will continue to happen. This bill
12 won't change that. When those things really go
13 awry, there is always a mechanism to be able to do
14 that, and those laws are already on the books.

15 COUNCIL MEMBER JACKSON: Mr. Chair,
16 I support the increase in fines and I just wish
17 that this increase in fines will be able to make
18 the changes so that people can live in peace, and
19 that individuals, especially first responders that
20 may respond where illegal conversions exist, that
21 they will not put their lives and safety in
22 jeopardy. So I thank you, Mr. Chair for holding
23 this hearing.

24 CHAIRPERSON DILAN: Thank you,
25 Council Member Jackson. Do any of my colleagues

1
2 have any questions at this time? Council Member
3 James, you were on the list. Council Member
4 James?

5 COUNCIL MEMBER JAMES: Thank you,
6 Mr. Chair. So, first of all, let me begin by
7 saying that I support Intro 404 and support the
8 work of Council Member Brewer and salute her on
9 this.

10 I do have some concerns, as someone
11 who represents Fort Greene, and it was used as a
12 hypothetical. My question is, based on the stats
13 that were provided, how many individuals, in fact,
14 rent out their units, perhaps looking to make some
15 extra cash? I mean is that really the likely
16 perpetrator or violator of this offense?

17 KATHLEEN MCGEE: I don't know how
18 many of the total number of complaints that my
19 office is receiving are the result of one person
20 in a building or a brownstone tenant renting out
21 as a one-off or even as a repeated income maker.
22 I don't have that breakdown.

23 I can tell you that the vacates,
24 for example, or the serious violations that are
25 levied that are accompanied with say fire

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2 violations as well are not those types of
3 complaints. Those are complaints where the
4 infrastructure of the building is so taxed
5 structurally, there are too many people, there are
6 not enough ways out. We have, for example, found
7 walk-up buildings in Brooklyn that are supposed to
8 be a four-story, four families that are being used
9 and being occupied by 44 to 50 people. Even if
10 it's not a fire, there is no way for the building
11 to accommodate that safely.

12 So the vast majority of the
13 inspections that result in violations that we levy
14 that would be triggered under Intro 404 are not
15 simply one individual tenant.

16 COUNCIL MEMBER JAMES: Right.

17 Again, I know that there were hypotheticals that
18 were thrown out, but I tend to deal in reality and
19 I would argue that most of the complaints that you
20 have received are not those who rent out their
21 rooms. They tend to be individuals who, as you
22 indicated, pose a threat to health and safety and
23 rent their rooms out to individuals, their
24 apartments out as illegal hotels.

25 I recognize the comments that were

1
2 made that there, perhaps, might be some unintended
3 consequences. So, I guess, to clarify the law
4 perhaps in your legislative intent or in your
5 rules, we could make sure that these unintended
6 consequences not occur. I do know as someone who
7 represents Fort Greene--and it's an honor to meet
8 you and I'm glad that you live in the district--
9 that there are some individuals who believe in
10 shared economy and some individuals who, again,
11 have taken advantage of their most precious asset
12 and have engaged in short-term rentals. But this
13 does not apply to bed and breakfasts, correct?

14 KATHLEEN MCGEE: That actually
15 triggers two separate questions. Bed and
16 breakfasts, and I'll defer to James Colgate on the
17 technical terms, they can be considered transient
18 use, whether or not they would qualify under this,
19 I'm going to defer to him.

20 COUNCIL MEMBER JAMES: Let me just
21 make sure. I know you succinctly described the
22 definition to my colleague but for my purposes I
23 need for you to do it again. Let me just pose the
24 question. The trigger is the 30-day period, is
25 that correct, under the state law?

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2 JAMES COLGATE: Right. It is
3 already a violation of the Administrative Code if
4 you violate that requirement of what the 30 days
5 is. This bill will just make the penalties
6 steeper, if you are a repeat offender or if you do
7 multiple dwelling units in the same building.
8 That's what this law does.

9 The 30-day requirement basically
10 says if I'm in an apartment building, a multiple
11 dwelling that's class A, and I rent it out for
12 money for less than 30 days, it's a violation of
13 the state law. That's what the state law says.

14 COUNCIL MEMBER JAMES: Right.

15 JAMES COLGATE: If I exchange, I go
16 to France and someone else comes to my house for a
17 weekend, that's okay. That doesn't trigger the
18 law. If I collect money from them, it is against
19 that state law. If I am going to rent it out,
20 sublet it for an entire 30 days or more, that's
21 perfectly allowed.

22 So we're talking about the short--
23 and if I live there and I take boarders who come
24 in for a day and leave, but I'm living here with
25 them and sharing my house--

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COUNCIL MEMBER JAMES:

[interposing] That's fine as well.

JAMES COLGATE: That's allowed too. So that's what the state law does. Understanding the state law is key to understanding then what this law does. All this Intro does or would do is to then establish a penalty scheme when you hit the trigger in paragraph 16. We added a 16, where you involve more than one dwelling unit, so you're doing it in multiple units in the same building or you're a repeat offender, that's when you get triggered with a new heightened penalty. That's what this bill really is about.

COUNCIL MEMBER JAMES: There's a memo that I have before me which is from Brian Chesky, CEO and co-founder of Airbnb Inc. I would assume that he's going to testify here today. He raises some concerns and some questions. Obviously there is the possibility of some unintended consequences as was expressed by my colleague. They're of tantamount concern to me, particularly at a time when, again, there are some individuals who are becoming entrepreneurs and believing in shared economy and renting out their

1
2 most precious asset in the City of New York. It's
3 really critically important that we be sensitive
4 to those constituents.

5 I do know that in Fort Greene,
6 working with the Pratt Area Community Council, I
7 visited a number of four-story buildings in Fort
8 Greene where individuals had, in fact, converted
9 to hotels and reported them to your office. I
10 want to thank you for all of your work in
11 addressing that.

12 I am totally in support of this
13 bill because it goes to safety, it strikes at the
14 heart of safety. I just want to thank my
15 colleague for sponsoring it and I'm a co-sponsor
16 of this as well. Thank you.

17 CHAIRPERSON DILAN: Council Member
18 Reyna?

19 COUNCIL MEMBER REYNA: Thank you so
20 much, Mr. Chair. I just wanted to understand.
21 There was a statement right now that was mentioned
22 regarding if you stay three days or more that's
23 okay.

24 JAMES COLGATE: Thirty.

25 COUNCIL MEMBER REYNA: Thirty days

1
2 or more.

3 JAMES COLGATE: If you lease it for
4 money, exchange money and lease it for 30 days or
5 more, that's an ordinary sublet and that's
6 perfectly allowed under the state law. This bill
7 doesn't affect what's legal or not legal; it just
8 ascribes a higher penalty for the repeat offenders
9 or multiple apartments in the building. That's
10 what this bill really does.

11 COUNCIL MEMBER REYNA: Okay. I
12 just wanted to make sure I didn't hear a
13 contradiction from the first explanation because I
14 didn't quite hear 30 and heard 3.

15 The statistics that had been read
16 out as far as 885 complaints, of that number how
17 many are coming from what would be Brooklyn?

18 KATHLEEN MCGEE: Now, I'd point out
19 those are just 311 complaints.

20 COUNCIL MEMBER REYNA: Okay, so--

21 KATHLEEN MCGEE: [interposing]
22 There could be additional complaints coming in via
23 just emails to my office, phone calls, letters.

24 JAMES COLGATE: Council Members.

25 KATHLEEN MCGEE: Council Members.

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2 Of those total complaints for 2011, 597 were in
3 Manhattan, 130 were in Brooklyn, 25 from the
4 Bronx, 2 from Staten Island and 131 from Queens.

5 COUNCIL MEMBER REYNA: So in your
6 analysis, have you been able to map out where
7 there are clusters of this particular practice?

8 KATHLEEN MCGEE: I have not mapped
9 them out, no. I can tell you that typically
10 tourists who are looking for low cost
11 accommodations tend to go to places that they'd
12 still like to be in. I mean, obviously
13 Williamsburg, Fort Greene, Park Slope.

14 COUNCIL MEMBER REYNA: I'm glad you
15 mentioned Williamsburg, so I'll narrow my focus.
16 Since you brought Williamsburg up, to be able to
17 understand, we've been working with a lot of our
18 housing advocates trying to protect tenants in our
19 district. It's come to my attention for quite
20 some time and, you know, the yeoman's job that
21 Gale Brewer is doing on this issue has lent a
22 voice to this on a very strategic way with the
23 administration, which I appreciate.

24 808 Driggs Avenue, I don't know if
25 you're familiar with that particular address,

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Hotel Toshi?

KATHLEEN MCGEE: We have received some complaints.

COUNCIL MEMBER REYNA: Okay. So the issue with Hotel Toshi goes beyond just taking a building that was a manufacturing building at one point and zoned. Do we know the zoning to that particular building?

KATHLEEN MCGEE: I probably could find it for you but I don't have it before me right now.

COUNCIL MEMBER REYNA: On the issue of, you know this is something that we're raising with the administration as far as the use groups of M zones and converting what would be old manufacturing industrial spaces into what would be hotels, because the use group allows hotels to be there. It would be illegal on the reverse side of what you had described for someone to pay for more than 30 days to be there as far as a residential occupancy is concerned.

JAMES COLGATE: Let me make this clear. The first issue you bring up isn't really related to this but it's very real, which is that

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2 in manufacturing districts, it's as of right
3 allowed to build hotels there. If Marriott wanted
4 to put a hotel or I should say--any particular
5 hotel wanted to put a hotel in any M district,
6 they could go ahead and do that tomorrow. We
7 would make sure the permit complies with the
8 zoning laws. That's what City Planning does.

9 In terms of utilizing a hotel for
10 more than 30 days or less than 30 days, this bill
11 doesn't talk about it. This talks about a
12 building that is classified for long term
13 occupancy. If you are classified as what we call
14 R-2 or residential and it's classified for
15 apartments, that's R-2, Class A. If it is on the
16 certificate of occupancy meant to be apartments,
17 it's got to stay apartments. If you violate that
18 a certain number of times, a certain amount of
19 times in the building, then you get the higher
20 penalties. That's all that this Intro does.

21 It doesn't affect if you illegally
22 make a hotel or if you take a hotel and you put
23 other kinds of people in it. That's not what this
24 is about. This bill is about taking an apartment
25 building that everybody knows Class A, R-2, I can

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2 say all those numbers but it's a regular apartment
3 building and putting people in it short term and
4 then violating a certain number of times, then you
5 get these higher penalties. That's what this is
6 mostly about.

7 COUNCIL MEMBER REYNA: I just
8 wanted to raise it to the attention of your team
9 at the Buildings Department to be able to
10 understand the operation that Hotel Toshi is
11 running from 808 Driggs Avenue relates to what
12 would be an operation that brings over a visitor
13 to the front of this building structure and then
14 searches what would be, or drives the person or
15 persons to residential apartments in the
16 neighborhood that become available, because they
17 have a contract with landlords. Are you following
18 me? Does it make sense?

19 KATHLEEN MCGEE: A little. As far
20 as this Intro 404 goes, it's obviously not the
21 topic here. But we would be more than happy to
22 discuss that with you.

23 COUNCIL MEMBER REYNA: But it is
24 the topic of this particular legislation. My
25 concern is that it gets lost in the shuffle of

1
2 purity along with the language in what is being
3 proposed. So I want to make certain that there
4 isn't a loophole.

5 CHAIRPERSON DILAN: I don't think
6 it's that far off, knowing the neighborhood. I
7 don't know the specifics of what you're talking
8 about but it sounds like residential area to me.
9 I don't know the details but it doesn't sound that
10 far off.

11 KATHLEEN MCGEE: I would simply say
12 if it's a location where--it doesn't matter if
13 it's habitually and perpetually, for example, as
14 it sounds like you're describing, being used as an
15 illegal hotel, it very well may fall under this
16 penalty structure.

17 JAMES COLGATE: If they go to Hotel
18 Toshi with some building, 808 Driggs, and they've
19 taken then shuttle bus some place and they bring
20 them to an apartment and they use that apartment
21 illegally, that is already against the law. It's
22 against the Administrative Code currently and
23 Kathleen's office takes complaints like that and
24 we do that all the time.

25 Then what this bill does is if

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2 there's more than one apartment in that building
3 doing the same thing--

4 CHAIRPERSON DILAN: [interposing] I
5 think because it's a specific case, it may come
6 down to what the C of O says but I think what we
7 want to do is just look at things in the broad
8 sense.

9 JAMES COLGATE: Yeah, you're right.

10 COUNCIL MEMBER REYNA: A very
11 comprehensive approach, right.

12 CHAIRPERSON DILAN: I think it
13 comes down to the certificate of occupancy in that
14 case.

15 COUNCIL MEMBER REYNA: My real
16 question, I really wanted to understand what tools
17 you use in order to, separate and aside from what
18 you had mentioned, as far as observations are
19 concerned, to detect what would be illegal use of
20 what could be residential apartments into hotel
21 status. More specifically, the internet. So I
22 have a listing here. Yelp can give me a few
23 locations in my district that are supposedly
24 hotels and clearly it's in violation of the law.

25 KATHLEEN MCGEE: An advertisement

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for something illegal is not--

CHAIRPERSON DILAN: [interposing]

Could you speak up?

KATHLEEN MCGEE: I'm sorry. An advertisement for something illegal isn't sufficient to write a violation for the activity.

JAMES COLGATE: The judge will throw it out. That's what it is.

KATHLEEN MCGEE: Right. We would have to correspond, essentially match up the advertisement to an actual corresponding unit or building where that violative activity was taking place.

So we do get complaints sometimes saying I see this happening and we've spoken to the tenant advocacy groups about this, that we see that this building has units being advertised for transient illegal hotel use, what can you do about it? Answer is nothing unless I can actually physically get there and make a dutiful inspection and observe--

COUNCIL MEMBER REYNA:

[interposing] When you get there, are you announcing yourself or are you running what would

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be an undercover investigation?

KATHLEEN MCGEE: Undercover investigation, where we would make a booking have been done in the past, but they are extremely costly. So we--

COUNCIL MEMBER REYNA:
[interposing] How many have occurred since 2006?

KATHLEEN MCGEE: A handful.

COUNCIL MEMBER REYNA: Including in the outer boroughs?

KATHLEEN MCGEE: Correct, simply a handful. The vast majority are we gain entry lawfully with our team, which includes Fire, Police and Buildings personnel. We knock on doors.

JAMES COLGATE: I think for the most part, people who are here from other countries and other places say why they're here and how long they're here. I mean that's your experience.

KATHLEEN MCGEE: Absolutely.

JAMES COLGATE: They say, oh, yeah, I'm in town for whatever. I rented for two days. They don't think there's anything wrong and, you

1
2 know, and they've very forthcoming. That's how
3 Kathleen gets her evidence to support her cases.

4 COUNCIL MEMBER REYNA: So if you
5 can just help me, and Chair, I don't know if this
6 is something that would be helpful to the
7 committee, but I know that I would be very
8 interested in seeing a mapped out analysis of what
9 would be, you know, 130 complaints in Brooklyn to
10 see if there are clusters that are occurring in
11 very specific neighborhoods. Because if we want
12 to be supportive of your efforts that we support
13 it in what would be an expensive investigation
14 that we align resources to your efforts. I know
15 that it's going to protect the tenants of my
16 district, which are rapidly being displaced and
17 developers just trying to be very creative with
18 their properties and assembling properties of
19 existing structures.

20 So, you know, for a few extra
21 thousand dollars on behalf of the landlord,
22 landlords are willing to give up one or two
23 apartments. This is a problem. If the writing is
24 on the wall that you can get away with it, it'll
25 just sweep neighborhoods right through and I don't

1
2 want that to be the case for Williamsburg.

3 KATHLEEN MCGEE: We'll work on
4 getting that information to you shortly.

5 COUNCIL MEMBER REYNA: Thank you.

6 CHAIRPERSON DILAN: You might as
7 well do it for the whole city because everybody is
8 going to ask.

9 KATHLEEN MCGEE: Consider it done.

10 CHAIRPERSON DILAN: Seeing no other
11 questions, I'm just going to jump in for a little
12 bit. Like two colleagues before me, and like I
13 said in my opening, the really egregious offenders
14 that do the residential and rent out on a short
15 stay basis, you know obviously we should go after.

16 I, too, am concerned about
17 unintended consequences. I've gotten questions at
18 town hall meetings from constituents, and I'll
19 pose it to you. If I want to open a bed and
20 breakfast in my district tomorrow, how would I go
21 about doing that? Under current statute, how
22 would I go about doing that?

23 JAMES COLGATE: That's a slightly
24 different series of questions than this intro and
25 I can explain that.

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CHAIRPERSON DILAN: Okay.

JAMES COLGATE: Basically--

CHAIRPERSON DILAN: [interposing]

Not to teach anybody how to go into business, but clearly there is a market for that. You can't use certain buildings to get into that market.

JAMES COLGATE: Right.

CHAIRPERSON DILAN: So what's the correct way to do it without being in violation of any residential laws?

JAMES COLGATE: There are a couple of ways to do it. You could do a type of bed and breakfast where you invite people into your home and you went them daily, weekly, whatever you want, but you have to be there. You can have up to two people stay with you anytime you want and you can charge them daily and there is no prohibition in any apartment building right now or any house, you can do that. That's lawful. But that limit of two people and that they must share the household with you while you're there.

CHAIRPERSON DILAN: Limit of two people.

JAMES COLGATE: It's one way.

2 CHAIRPERSON DILAN: Say it's a
3 little bit more complicated than a bed and
4 breakfast. Say somebody purchases a building in a
5 residential area but that building was never
6 intended for residential use.

7 JAMES COLGATE: For residential
8 use?

9 CHAIRPERSON DILAN: Say the
10 building has never been residential use.

11 JAMES COLGATE: Right.

12 CHAIRPERSON DILAN: Was never
13 intended to be--

14 JAMES COLGATE: [interposing] It's
15 a commercial building.

16 CHAIRPERSON DILAN: I'm thinking
17 theoretically here now. I've got no--

18 JAMES COLGATE: [interposing] I'm
19 just trying to think though, if I'm in a
20 residential zoning district and I have a building
21 that was not residential, what was it before, a
22 retail store? I don't understand.

23 CHAIRPERSON DILAN: Say it was a
24 convent; say it was a retail store. I guess we
25 could--

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2 JAMES COLGATE: [interposing] The
3 zoning generally won't let you do that.

4 CHAIRPERSON DILAN: So residential
5 zoning you're saying would not permit.

6 JAMES COLGATE: That's right. I
7 mean realistically what you'd have to do is if you
8 wanted to start a real bed and breakfast under the
9 current zoning laws, it's a use group 5. You'd
10 have to open that kind of arrangement within a
11 commercial zoning district and you'd have to
12 provide little studio apartments. You could rent
13 transiently. You have to do fire alarms,
14 sprinkler systems, the whole bit.

15 It's a lot of energy, and some
16 people are doing that, but it can be done. But
17 the laws on the books that are there now require
18 all kinds of safety upgrades to be able to do
19 that.

20 CHAIRPERSON DILAN: Okay.

21 JAMES COLGATE: It won't allow you
22 to rent out an apartment. If I own a three-family
23 house, there's no way under the laws under zoning
24 or the Building Code or the state law that I could
25 take one of those apartments and rent it out

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transiently. You can't do that.

CHAIRPERSON DILAN: Like the Catholic Church, for instance, they have tons of like old convents. You know, potentially, largely in my district they're becoming--the convents and schools are becoming homeless shelters and charter schools.

JAMES COLGATE: Right.

CHAIRPERSON DILAN: So a hotel use, I think if I had to choose, and this is just me, if I had to choose between a transient hotel or a homeless shelter, I think I'd rather have the hotel, but that's just me.

JAMES COLGATE: This is a discussion you'd need to have with the zoning people at City Planning because--

CHAIRPERSON DILAN: [interposing] No, I'm just trying to find out facts here, I'm not trying to--

JAMES COLGATE: [interposing] So I'll--

CHAIRPERSON DILAN: --and you're providing me with the answers that I'm seeking. So you're telling me zoning wouldn't permit,

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therefore the use would be illegal.

JAMES COLGATE: That's right.

CHAIRPERSON DILAN: That's all I'm looking for.

JAMES COLGATE: The zoning would allow a homeless shelter in a residence district and zoning would allow--

CHAIRPERSON DILAN: [interposing] You could put a homeless shelter nowadays just about anywhere.

JAMES COLGATE: --a school in a residential district.

CHAIRPERSON DILAN: You could put it in Times Square if you wanted.

JAMES COLGATE: That's right. But in a residential district, you can put a homeless shelter. In a residential district, you can put a school. In a residential district, you can put a church or a convent. Any of those things, any house of worship you can put in a residential. You can't put a transient hotel in a residence district.

CHAIRPERSON DILAN: That actually answers my question. That's what makes it illegal

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2 is because the zoning doesn't permit.

3 Just in terms of enforcement, which
4 agency is the lead on enforcement? Is it the
5 Buildings Department? Is it the Mayor's Office of
6 Special Enforcement?

7 KATHLEEN MCGEE: It generally tends
8 to be the Department of Buildings as coordinated
9 by the Mayor's Office of Special Enforcement.
10 That is the Mayor's Office of Special Enforcement
11 through an Executive Order of Mayor Bloomberg back
12 in 2006 was granted exclusive jurisdiction over
13 the problem of illegal hotels. Any illegal hotel
14 complaint citywide is brought to the office and
15 the Department of Buildings, obviously since it
16 issues the violations on the Administrative Code
17 that are most directly at issue, when it comes to
18 an illegal occupancy, take the lead as the most
19 important agency out there. But Fire is a close
20 second. Fire goes out on every single inspection.

21 CHAIRPERSON DILAN: The short
22 answer is the Buildings Department is the lead?

23 JAMES COLGATE: I think that's
24 right. I mean, if you look at the structure of
25 it, DOB is issuing the violations. DOB is going

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2 to court. DOB is issuing the vacates. OSE is the
3 one on the ground doing the work with us. I
4 guess, how do you--

5 KATHLEEN MCGEE: [interposing]
6 Coordinating the efforts.

7 JAMES COLGATE: Coordinated.

8 CHAIRPERSON DILAN: Okay. Then I
9 guess please describe the current violation
10 process in terms of for the illegal conversion of
11 permanent residential into transient hotel. Right
12 now, a violation, from what I understand, and you
13 can correct this, a violation is issued against
14 the C of O. How is the violation against the C of
15 O, or other violations in case of illegal
16 conversions to a hotel classified? How would it
17 currently be classified?

18 KATHLEEN MCGEE: It would be
19 classified as occupancy contrary to the
20 certificate of occupancy. It would be issued to
21 the owner of record. That violation is answerable
22 to the Environmental Control Board and their
23 administrative tribunal. There is a court date
24 given and a compliance date for the many types of
25 violations. Then the respondent, the recipient of

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2 the violation and/or her representative go to
3 court and they can either plead no contest to the
4 violation and pay a fine or they can contest the
5 violation before a judge.

6 CHAIRPERSON DILAN: So what happens
7 to the current violation structure if we pass this
8 violation? Will there be a dual violation
9 structure?

10 RENALDO HYLTON: It would just be
11 more specific and it would allow it to be a class
12 one violation, which also it does subject to--well
13 it actually triggers an automatic re-inspection by
14 another section of the code that requires us to
15 re-inspect class one violations periodically.

16 JAMES COLGATE: To clarify that,
17 the class one only gets there if there are either
18 repeats in the same building or multiple dwelling
19 units in the same building. So that's what this
20 bill deals with.

21 CHAIRPERSON DILAN: I guess the
22 answer is are you going to be issuing violations
23 still against the C of O as well as--

24 JAMES COLGATE: [interposing] In
25 the same way. It'll work just the same way. The

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2 inspectors on the ground issue the same violation.
3 When that inspector hits the trigger in paragraph
4 16 of the Intro, which is that you have multiple
5 dwelling units in the same building or repeat
6 offenders, then it gets stepped up. It's the same
7 violation but the penalty before the ECB judge is
8 a higher stake. Does that get it right?

9 KATHLEEN MCGEE: I believe it's
10 simply a box that is checked on the violation
11 itself indicating that it's a class one violation,
12 immediately hazardous and therefore triggers the
13 additional penalty scheme if they're found in
14 violation.

15 CHAIRPERSON DILAN: So you'll be
16 able to do class one and class two violations,
17 essentially right?

18 KATHLEEN MCGEE: Correct.

19 RENALDO HYLTON: This type of
20 illegal conversion by code is not a class one.
21 The code tells you anything other than a one or
22 two family home converted to four or more is
23 automatically a class two violation. We think
24 this is more appropriately a class one violation.
25 And so--

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JAMES COLGATE: [interposing]

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You're saying this bill will make it a class one?

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RENALDO HYLTON: This bill would

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make it per se a class one, meaning the judge or

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no one else could argue that it's not a class one.

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Because really what happens, a respondent could

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come to court and argue before a judge--

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CHAIRPERSON DILAN: [interposing]

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Now I think you may have confused me. So now what

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happens to the class two in that case?

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RENALDO HYLTON: Violations will be

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issued as either a class one or a class two. It

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wouldn't be issued both.

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KATHLEEN MCGEE: What I was saying

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was that there will still be instances where there

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will be class twos issued. That is where it's

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simply one occasion. There is no way to determine

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a repeat offender on the first instance, for

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example, if it's one unit in a building. So there

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will be circumstances where the immediate

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hazardous situation isn't warranted and isn't

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issued.

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CHAIRPERSON DILAN: I'll move on.

24

I think I get you but just offline I'll seek to

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2 shore up my understanding of this position
3 offline.

4 JAMES COLGATE: We'll be happy to
5 go over it.

6 CHAIRPERSON DILAN: Just for the
7 sake of moving on. I don't think I have anything
8 else. Gale, if there's now follow-up I think I'm
9 done. I'd like to thank you all for coming and
10 providing your time and testimony. At this time
11 we'll turn the hearing over and hear from members
12 of the public. So, thank you.

13 KATHLEEN MCGEE: Thank you.

14 CHAIRPERSON DILAN: I see we have
15 the Ranking Member on Senate Finance who has been
16 sitting and waiting patiently. You will be up.
17 I'm going to send her alone and then the reps of
18 other electeds will come up after the ranking
19 member on Finance who can testify certainly on her
20 own. And please don't take out my tardiness on my
21 father.

22 [Laughter]

23 LIZ KRUEGER: I could make a list
24 of what you should take out on your father based
25 on, you know, operational realities for us in

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2 Albany as well. I appreciate the--or lack
3 thereof. I brought copies of the testimony for
4 everyone. Thank you. Sorry; I should have given
5 them to you.

6 My name is Liz Krueger and I am a
7 State Senator here in Manhattan, and I'm delighted
8 to see so many good friends here on the City
9 Council. I am here to testify in favor of the
10 Intro. I am here particularly because I was the
11 lead sponsor in the Senate on passing the state
12 law that, in fact, has given, I believe, the City
13 of New York the tools to start to address many of
14 the issues you already have heard something about
15 today. Particularly, I want to reference my
16 appreciation for Council Member Brewer and her
17 hard work throughout I think the six years we have
18 been working on this issue to date. And to
19 emphasize the importance of adding to the arsenal
20 of tools that the city needs and increased penalty
21 structure.

22 I completely respect the questions
23 of several of the Council Members in trying to get
24 more clarity from the city about how this would be
25 implemented. I think those are totally reasonable

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2 and appropriate questions. But I want to
3 highlight the real human side of this, as I've
4 been seeing in my district and in other districts,
5 growing over the last six years, to answer, I
6 think, the Chair's question.

7 First, just to highlight something
8 I think you already saw in this hearing. There
9 are many different types of short-term
10 arrangements that individuals make about the use
11 of their own apartments, parts of their apartments
12 and in fact whole buildings. This state law that
13 we passed and that Council Member Brewer has
14 attempted to increase the fine possibilities on is
15 simply one set of issues.

16 Chairman, you just asked a
17 question, a perfectly reasonable question about
18 some scenario, when it turns out it's zoning law.
19 You are the City Council and you may choose to
20 address and change zoning law. But to make clear,
21 it's not a yes or no answer based on the state law
22 we just passed.

23 Because I was so involved in the
24 sponsorship of the bill and writing and rewriting
25 it endless times over the six years, I heard from

1
2 so many people, Council Members, Assembly Members,
3 Senators, residents of buildings with "what if"
4 situations. So what I would like to make clear
5 and go on the record about: there are a huge
6 number of variations in how people may be short-
7 term subletting, renting out their units.

8 They're probably almost all against
9 some law, but not the law that we passed a year
10 and a half ago in the Legislature and that is the
11 discussion here today. The truth is if you have a
12 lease on an apartment, it probably says you're not
13 allowed to do short-term sublets. I have seen
14 almost no leases that actually allow short-term
15 subletting without the permission of the landlord.

16 If you have a rent-regulated
17 apartment and we are now seeing landlords going to
18 court and applying the existing law, not the new
19 law correctly. If you have a rent-regulated, you
20 are not allowed to sublet for a profit. It's
21 simply not allowed under rent regulation law.

22 If you live in a co-op or condo, I
23 dare you to find the copy of the bylaws of any
24 cooperative or condominium and building in this
25 city that says owners are allowed to sublet short-

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2 term without permission from the board. And in
3 fact, I find a disproportionately large number of
4 complaints coming in to my office from co-op condo
5 owners going "but there's a hotel operating on the
6 2nd and 15th floor." Wait, that's not allowed
7 under the bylaws. That's right. We're going to
8 stop that. That's not okay. In fact, that's
9 totally within their purview. But it wasn't legal
10 before we changed the state law either.

11 So there are a million different
12 scenarios that we have found and a million
13 different discussions you can have. But the
14 purpose of the state law was to ensure that the
15 actual activity of illegal hoteling was stopped
16 because it is destroying people's residential
17 apartments, their quality of life. It puts people
18 at risk. I have had any number of discussions
19 with people whose lives were put at risk because
20 illegal hoteling was going on in their buildings.

21 I have gone to and have
22 documentation of buildings throughout my district
23 which includes the Midtown area, North Chelsea and
24 the East Side of Manhattan, which got hit, I say
25 along with the Upper West Side earliest with this

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2 practice. That people were absolutely violating
3 the Building Code, the Fire Code, in putting up
4 fake walls.

5 COUNCIL MEMBER BREWER: Bed Bug
6 Code.

7 LIZ KRUEGER: Bed Bug Code. Thank
8 you. I forgot you had a bed bug code. Where they
9 were piling people into apartment units that were
10 intended to be single family apartments within
11 multi-dwelling units, where the Fire Department
12 didn't have the authority to go into the
13 apartments to even see what was going on, other
14 than through an Office of Special Enforcement
15 investigation.

16 I think they left, but I want to
17 give enormous credit to the Mayor's Office for
18 Special Enforcement and the Fire Department and
19 the Department of Buildings who worked so closely
20 with us to not only document the problems but also
21 work to fine tune the legislation that finally did
22 pass the Senate so that we avoided unintended
23 consequences and focused on the bad guy players.

24 When you ask also how does it
25 impact communities, and the numbers were

1
2 Manhattan, Brooklyn, Queens, certain geographic
3 areas in Brooklyn, here's the truth, we all know
4 this. We have an affordable housing crisis in the
5 city. So anytime you're taking affordable units
6 off of the market illegally in one geographic
7 area, it's affecting your area also.

8 So even if you don't think your
9 specific Council district has a problem of illegal
10 hoteling, you actually have more pressure on your
11 existing affordable housing stock because whole
12 sections of my district have seen buildings
13 illegally removed from being affordable residence.

14 In fact, while no one asked the
15 question of the city and I'm not sure that they
16 could have answered the question, in our anecdotal
17 experience, the illegal types of hoteling activity
18 that we're seeing are happening in rent-regulated
19 buildings, in buildings with J-52, 421-A. These
20 are buildings where there have been tax incentives
21 offered to encourage, create, support and continue
22 affordable residency.

23 Yet, the bad players are in fact
24 taking advantage in some way of tax exemptions.
25 They are disproportionately not paying business

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2 taxes on hotels. So they're cheating the city
3 from a tax perspective in two different ways,
4 potentially taking advantage of tax credits and
5 exemptions without offering the affordable
6 residences and in fact then failing to pay city
7 taxes. Because, after all, how do you collect a
8 hotel tax on an illegal hotel room? What's the
9 likelihood that you're paying it?

10 In fact, we had a recent incident
11 where somebody brought a complaint to my office.
12 They had been a visitor here at a horrendous
13 illegal hotel situation. But they were curious,
14 did they have to pay the hotel tax. We checked
15 with the City, who said it's not a legal hotel and
16 they don't pay taxes, so, no, you don't have to
17 pay them a tax.

18 However, they also couldn't get
19 back the money that they had spent on a horrendous
20 non-hotel hotel room. They couldn't get back the
21 enormous deposit they had given. They had no
22 rights as a tourist that would have rights under
23 New York City law if they had been in a hotel that
24 failed to deliver services. But you can't hold a
25 non-legal business accountable for taking your

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2 money and not delivering service.

3 So the additional penalty that we
4 have seen over and over again is both on the
5 tourist, who believed in good faith they were
6 renting a hotel room, paid online before they got
7 here--it's almost all done online through
8 websites--had no mechanism to get their money
9 back, had their vacations, in many cases, ruined.
10 And of course, then went home to fill in the blank
11 country or fill in the blank state, and put
12 information on websites saying "oh my god, don't
13 go to New York City, it's horrible. You can't
14 believe the hotel conditions there."

15 So, in fact, we can also document
16 how much damage is done to the reputation of the
17 City of New York when we don't get this under
18 control. So it's a lose/lose/lose perspective.
19 It's a lost for affordable housing in general.
20 It's a lose for making sure that the City of New
21 York is, in fact, assuring that when someone is
22 staying in a building it is a safe building that
23 meets our stands. Because, remember, if somebody
24 as illegally converted six apartments on the fifth
25 floor and because of any number of scenarios where

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2 it's a fire and somebody could get killed trying
3 to go in and rescue people on the sixth floor, or
4 people on the sixth floor, the people on the fifth
5 floor and the seventh floor are also going to be
6 harmed and their quality of life and their housing
7 will be destroyed. We are seeing that also.

8 I have experience where elderly
9 women, living in the same residence for decade,
10 suddenly find themselves in situations where there
11 are groups of young tourists who come to New York
12 City to party. I have no problem. I remember
13 being young and I have no problem with tourists
14 wanting to party here.

15 Not in the apartment next to an
16 elderly women, where they get drunk and get into
17 fights in the hallways right outside, not of that
18 apartment. Not when there are young children
19 living in apartments in buildings where suddenly
20 it becomes a chaos scene both in the hotels, in
21 the elevators. Not in buildings, particularly
22 without doormen, where you really depend on
23 knowing your neighbors and feeling secure that
24 when you open the door to your building and go up
25 and down your elevators or in your halls you know

1
2 who else has keys to your building.

3 To discover that suddenly somebody
4 has turned units or a unit into an illegal hotel
5 and there are groups of people you've never seen
6 who all have keys to go in and out of your
7 building and into your elevator. There have been
8 violent incidents. There have been threatened
9 sexual attacks and there has been at least one
10 documented sexual attack.

11 We don't want to encourage this
12 kind of behavior. We need to do everything we can
13 to protect the residents of our communities, the
14 quality of life of people who rent their
15 apartments legally or own co-ops and condos and
16 truly don't even understand what might be going on
17 in their building.

18 So I have full testimony and I
19 haven't even read it to you, but I just want to
20 make sure I'm highlighting some of the points I
21 wanted to make clear. The state bill was intended
22 to give tools to the City of New York. The City
23 of New York says those have been good tools and
24 they have been effective.

25 But without some ability to raise

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2 fines beyond whether it's \$800--I thought it was
3 \$800 maximum. I'm not sure from the give and take
4 before that it might not be slightly more than
5 that. An \$800 maximum fine for somebody who is
6 committing illegal activities over and over again
7 that can be putting at risk the lives and the
8 health and safety of both the tourists and the
9 people who live in those buildings, is not an
10 adequate fine structure.

11 It is not unreasonable to allow the
12 City of New York to have the tools to actually
13 make the activity fit the penalty or allow the
14 penalty to fit the activity. I respect the point
15 of needing more detail about how those would be
16 implemented.

17 Again, listening carefully to the
18 city's discussion back and forth with you, I just
19 want to highlight it's not DOB's authority to set
20 this. They simply make a determination that xyz
21 has happened. It goes to the Environmental
22 Control Board. An administrative law judge is
23 making a decision whether or not to apply that
24 penalty. All due process rights are in existence.
25 I don't believe there is anything in Council

1
2 Member Brewer's intro that would allow exception
3 to due process through the ECB.

4 So, in fact, again what we're
5 talking about are tools. Tools to allow people to
6 feel safe in their homes, communities to be
7 protected, ensure that affordable housing is being
8 used as affordable housing. I'm happy to continue
9 to work with the City Council on additional
10 changes that you might think are needed to state
11 law to, in fact, clarify or give the city
12 additional tools.

13 What we attempted to do with the
14 bill that, again, took five years I think to get
15 actual pass from the first meeting I went to, was
16 we tried to build in almost every legitimate
17 exception we could imagine so that there were not
18 unintended consequences. There can still be
19 unintended consequences, but again, my experience
20 to date, the city is truly only going after the
21 bad players. Grandma is not getting caught up in
22 this if she decides to rent her apartment for a
23 couple of weeks when she goes to visit the
24 grandchildren. College professors are not getting
25 caught up in this if they decide to do some kind

1
2 of trade, you know, with the University of London
3 during the summer.

4 Again, just emphasize, most of the
5 arrangements that you see on web options, they're
6 not legal. They're not legal, not because of the
7 bill that we passed a year and a half ago in
8 Albany. It was never the intention of the bill to
9 address those issues. It doesn't address those
10 issues.

11 But it doesn't change the point
12 that if you understand housing law, I'm speaking
13 to the Housing Committee, you understand what's in
14 leases in the City of New York, you understand
15 what are your rights and your responsibilities as
16 a co-op condo owner or the sponsor who might still
17 control some number of units in that building or a
18 building owner. Most of these arrangements are
19 not legal, just nobody was really looking too
20 carefully. This bill does not attempt to
21 encourage looking more carefully. It is a
22 complaint-driven system.

23 Even if I wanted to go demand the
24 City of New York do whatever number it was, 850
25 inspections and investigations, and again those

1
2 were just the 311 calls, not all the reports, I
3 can tell you my office alone brings--I'm looking
4 for my staff--at least 30 complaints to that
5 office this year. Multiply that by Council
6 Members, Assembly Members and Senators. So even
7 if in a perfect world I would imagine asking the
8 city to inspect every single complaint they get
9 that is never going to be the case.

10 Of course, those are complaints.
11 If no one is complaining, you're doing whatever
12 you're doing in your building as has always been
13 the history of New York and there is nobody coming
14 and knocking on your door.

15 So, again, I really do urge you to
16 support this bill and to understand it's simply an
17 additional tool that can be used to go after the
18 bad guys. I'm happy to answer any questions.

19 CHAIRPERSON DILAN: Thanks. We'll
20 certainly enter your written testimony into the
21 record as well, in full. I remember a piece of
22 legislation, I believe also introduced by Council
23 Member Brewer and referenced by Council Member
24 Fidler earlier that this committee heard that I
25 couldn't support and that was because it would

1
2 have effectively shut down all the major hotels in
3 the City of New York. I know you're aware of it
4 because you worked on it. The work that you have
5 done in the state bill obviously excluded and
6 exempted those items and you found a way to do
7 that. So I commend you for that. That was the
8 reason why we couldn't go forward with that bill
9 as well as some limitations on the city's
10 authority, which is why it got state jurisdiction.

11 Certainly, my opinion of an
12 unintended consequence doesn't include not paying
13 the city's hotel tax. But I have seen instances
14 of unintended consequence, I believe, and that
15 could turn out to be factually incorrect, where
16 the hotel tax was indeed being paid. So I don't
17 think that that was ever an intention to commingle
18 or represent that it was residential at all. It
19 was in fact some hotels that may have been gone
20 after, I think wrongfully, by the Office of
21 Midtown Enforcement. Those are the concerns that
22 I'm looking after.

23 Certainly, it's egregious to party
24 right next to grandma. While I've been a lifelong
25 New York City resident, I have partied in other

1
2 cities and I had absolutely no interest in
3 partying next to grandma and I don't know why
4 anybody else would want to do that. I've
5 certainly partied with my grandmother, but not
6 anybody else's. That just seems kind of weird.

7 Just aside from that, I wanted to
8 thank you for the work that you've done in the
9 state and just some questions and some background
10 on the state law. You may have the answer and you
11 may not.

12 In the state law, you addressed
13 buildings to the pre-1960s zoning, I believe, and
14 asked them to come back and if they were going to
15 operate as hotels to come back and get their C of
16 O amended. Then there are other buildings post-
17 1960 also have the opportunity to come and get
18 their C of O amended if they wanted to operate
19 hotels, which I believe is a fair process. But
20 why, for the buildings that were grandfathered in
21 before 1960, why was this additional requirement
22 put on them, if you recall?

23 LIZ KRUEGER: I wish that the
24 Department of Buildings attorney hadn't left yet
25 because I remember--

CHAIRPERSON DILAN: [interposing]

We can certainly address that to him in writing if you can't.

LIZ KRUEGER: What we learned when we attempted to create this bill at the state level was that there were endless inconsistencies in the history of city law that made it exceptionally difficult to come up with one plan to actually be a coherent set of rules that people could follow and that the city could apply.

So there were various changes in the zoning text at various points in history. There's one section of the state law that even references back to an 1894 law. So this was a very broad swath of different laws we were trying to make consistent.

So in fact, what we learned were that there were several hotels that pretty much everybody agreed were real hotels, in fact were unionized, had been operating for an extended period as hotels, were licensed, met A-B-C-D, but didn't suddenly meet E and F when we really looked at what their C of O over what their zoning was. So through working with people who actually came

1
2 forward and said--because we didn't try to
3 surprise anyone with this bill, it went through so
4 many different versions, that when they came
5 forward and said "but we're x hotel, we've been
6 operating since 1928 as x hotel." The city looked
7 and said but you don't meet the definition or the
8 zoning or some section of the Building Code.

9 I remember one building they would
10 just have to change their windows. They were
11 prepared to. But there was a reason to actually
12 put into the law a two-year opportunity for people
13 to quote/unquote cure problems that they might
14 have in context of C of O and/or zoning and/or
15 date when they started business. So I don't know
16 specifically the pre/post 1960. I can get you
17 that answer. But it's one of those variations of
18 trying to make sure we gave, again players who
19 believed that they were legitimate operating
20 hotels as the city defines it, an opportunity to
21 cure whatever their problems might be.

22 CHAIRPERSON DILAN: Council Member
23 Fidler, followed by Brewer and then James. Thank
24 you, Senator.

25 LIZ KRUEGER: Thank you.

COUNCIL MEMBER FIDLER: Good

afternoon, Senator. I get it. All right, I absolutely positively wouldn't want to live next door to a transient unit if I lived in a multiple dwelling. I get it. That's not the point of the questions that I've been asking.

I do want to make a couple of comments about things you said. First of all, when someone sublets their apartment or sublets a co-op, that's not illegal. That's a breach of contract between private citizens. The government doesn't get involved. One citizen takes the other to court. So we're not talking about imposing a penalty or a fine on that person. So that is not a distinction without a difference. I think that's important to note.

Second, you talked about there is no suspension of due process. Certainly those of us sitting here in the City Council have watched during the last ten years while this administration has found every fine that it could possibly levy on its citizenry, expand upon them and balance the budget with them.

The temptation to raise a fine from

1
2 a standard--I'll use his word--\$800 to a maximum
3 of \$25,000, particularly with an agency that
4 frequently doesn't have the great full faith and
5 trust of members of the Council in terms of how
6 they enforce their law, whether they're going to
7 take their next PEG by going out and trying to
8 raise revenue by fines, is a bit of a problem for
9 me.

10 I mean you talk about due process,
11 when I get a parking ticket for 35 bucks that I
12 don't think I deserve, I pay the 35 bucks because
13 it's usually not worth my time to go down and
14 contest it somehow. I think a lot of citizens do
15 that, even with fines that are higher than that,
16 \$100, \$150.

17 At \$25,000, you're facing that
18 exposure, you hire a lawyer. Whether you're
19 innocent or not, you hire a lawyer. So you've
20 lost on day one. So there is a distinct lack of
21 faith, at least from this Council Member in this
22 administration when it comes to fines and
23 discretion.

24 I heard you indicate that you
25 understood some of that. I guess my question to

1
2 you is would this be a better bill, in your view,
3 if we took the rulemaking authority from the
4 Buildings Department and put a structure in the
5 bill that kind of told them what they could and
6 couldn't do and when they could wield the big
7 stick and at whom they could wield it?

8 Clearly, there is a group of bad
9 actors and clearly there are a group of people who
10 could be fined under this bill. Yet you're
11 assuring me they're not the target. I believe
12 that. Today they may not be caught up in it. But
13 tomorrow, when DOB has to make their next budget
14 PEG, maybe they will be. So would that improve
15 this bill in your view?

16 LIZ KRUEGER: I will tell you I
17 don't know enough about the City Council process
18 for local law to know where authority starts and
19 stops with rulemaking within intros versus
20 rulemaking by agency after intro. So I would
21 certainly say yes, that if that's the way it can
22 be done in City Council land and law, I don't see
23 a problem with exploring that. I would defer to
24 my colleague Gale Brewer, the intro sponsor.

25 I just want to clarify. I do know

1
2 and I heard them say it and I've reviewed this
3 material. Nobody is going to get hit with a
4 \$25,000 fine on the first day. So it can never be
5 day one you have to get a lawyer and you lose.

6 And in fact, I also respect your
7 concern about has the city gone crazy with fines.
8 It's an excellent question. I find it disturbing
9 that my building can face larger fines for not
10 putting our garbage in the right color bags than
11 somebody can be fined for putting at risk hundreds
12 of lives. So I do see a problem with the scale of
13 risk to penalty now. So maybe the answer is to
14 lower the fines my building might face for
15 somebody tearing open the garbage or putting the
16 blue and the clear and the black in the wrong
17 direction.

18 Again, myself, \$800--

19 COUNCIL MEMBER FIDLER:

20 [interposing] I'm reasonably--

21 LIZ KRUEGER: --when you're putting
22 people's lives at risk just doesn't seem like that
23 big a scare.

24 COUNCIL MEMBER FIDLER: Well, let's
25 be fair. Not all of these violations put people's

1
2 lives at risk. I mean I could go back to the days
3 when I was a community board chairman in 1982 when
4 five people died in a fire in an illegal occupancy
5 in my district where people were living in
6 cubicles and they were being rented in eight-hour
7 intervals. I don't think we're talking about that
8 here.

9 Certainly, there are levels of
10 egregious. Renting a room to one person or two
11 people is not quite the life threatening example
12 as the opposite end that I just detailed for you,
13 which is an outrage. I mean it was a horrendous
14 thing. The Buildings Department knew about it.
15 The Fire Department knew about it. No one vacated
16 them. Five people died. They were using all
17 kinds of bad electric and whatnot. That's the
18 whole other end of the story.

19 LIZ KRUEGER: Actually, I'm seeing
20 that in some units on the Upper East Side today.

21 COUNCIL MEMBER FIDLER: I would
22 think that no change in the law would be necessary
23 to vacate those units as immediately hazardous,
24 because they are per se immediately hazardous.
25 That was the law in 1982 and I guess maybe some of

1
2 the history of my lack of faith in the Department
3 of Buildings is that they were aware of it and
4 they didn't seem motivated to get off their tuckus
5 and vacate that property and people died.

6 In the outer boroughs, illegal
7 occupancy is frequently what's done to make
8 housing affordable. When we take that illegal
9 basement in the two-family house and turn it into
10 a three-family house so we can pay the mortgage.

11 So there are lots of things to be
12 considered when you start raising fines on illegal
13 occupancy and, you know, raising affordable
14 housing, it cuts both ways. So I just want to
15 make that point.

16 LIZ KRUEGER: No, I agree and--

17 COUNCIL MEMBER FIDLER:

18 [interposing] I'm quite sure we have the
19 authority, if we put something in the law that
20 supersedes an agency's rulemaking ability, they
21 can't then make a rule that's contrary to what we
22 put in the law. I just don't trust them. That's
23 my problem. I don't trust them. They've proven
24 to me that I have reason not to trust them.

25 So I would hope that we could work

1
2 together with Council Member Brewer and yourself
3 on putting the appropriate fine structure and
4 narrowing the scope so that we are, in fact, only
5 giving them the discretion to go after the bad
6 actors, not to go after the people that might get
7 caught up in it for the next budget PEG.

8 LIZ KRUEGER: I would defer to this
9 panel on what the authority of the Council is to
10 reverse the order as you've described. Thank you.

11 CHAIRPERSON DILAN: Council Member
12 Brewer?

13 COUNCIL MEMBER BREWER: First of
14 all, thank you very much for all your efforts.
15 They're humongous. I also want to thank you
16 because I think you've clarified--talk about
17 inadvertent positive consequences, you've
18 clarified some of the other issues: going away for
19 the summer and all the boarding and the people who
20 come and go and that was never clear before. So
21 DOB, to their credit, but more importantly the
22 Mayor's Office of Special Enforcement, to their
23 awesome credit, has clarified this, I think, for
24 New Yorkers in general. You and I and others have
25 had to answer all these questions about the

1
2 differences. Now I understand them and I think
3 others do. So thank you for that clarification.

4 My question is in all of this, and
5 again this may not be answerable, we've been
6 trying to create affordable housing. I'm just
7 wondering in the general sense, do you think that
8 some of our work will do that. We are trying hard
9 to get rid of any health and safety concerns.
10 That's our number one goal I think and I think you
11 would agree with that.

12 But hopefully an unintended
13 consequence might be to have some more affordable
14 units. I'm just wondering if you think any of
15 that is possible. Do we need some abatements?
16 That's a horrible word to even consider in this
17 economy for owners who are in the housing business
18 who want, perhaps, to provide more affordable
19 housing but are instead renting for 30 days or
20 more legally.

21 LIZ KRUEGER: That's an excellent
22 question. In today's economy, you're right,
23 talking about economic incentives to keep
24 apartments affordable are challenging to all of us
25 in government. I had a staff at a morning I guess

1
2 presentation on housing where somebody, I believe
3 from HPD, was discussing that they were at risk of
4 losing all of their federal money for building
5 inspections. I can't even imagine what the city
6 looks like if you fail to do building inspections.
7 So we're in bad economic times for any new
8 creative opportunities in housing.

9 But I do know just having this law
10 that could be enforced effectively; again, I think
11 we need your side of the package as well as the
12 state side of the package. This law and the city
13 being dutiful in going after bad players can take
14 large number of units and bring them back into
15 residential use and affordability.

16 I mean the irony is right now we're
17 talking about not adequate money for affordable
18 housing or preservation but you're actually, in
19 failing to go after the bad guys, we're actually
20 giving them tax incentives, J-51, 421-A, an uneven
21 playing field, they don't have to follow Fire
22 Code, they may or may not ever pay taxes because
23 they're not a legal business. We're giving them
24 advantages over legal residents of the City of New
25 York and legal businesses in the City of New York.

1
2 Think about that.

3 So I do believe that proper
4 implementation of this law, your intro and
5 potentially other steps that can be taken by the
6 city and state can, in fact, incentivize people
7 not to be bad players, because it's too expensive
8 and they risk having everybody thrown out of their
9 building and the city coming after them.

10 So it can incentivize people to
11 follow the law, do the right thing, deter bad
12 actors because that's what penalties are also
13 supposed to do. They're supposed to deter people
14 from wanting to face those kinds of penalties.
15 And you know so well on the Upper West Side what
16 means if you lose one or two buildings of
17 affordable housing. Entire communities of people
18 who have made their lives in a specific community
19 can get pushed out. And then, of course they
20 might--it's an interesting question, because they
21 might decide Brooklyn is a fabulous borough, which
22 it is, and they might go check it out.

23 Now, the dilemma there, of course,
24 is Brooklyn also has an affordable housing
25 problem. Having people pushed out of one part of

1
2 the city into another, it's a game of deck chairs
3 on the Titanic if you're not actually expanding
4 the pie of affordable housing. So there are real
5 effects of our not having taken steps fast enough.
6 I'm hoping that taking steps now, we can be
7 reversing trends that clearly, as we know, have
8 been expanding beyond the initial areas. We got
9 it first but it's a spreading pattern.

10 COUNCIL MEMBER BREWER: Thank you
11 very much.

12 CHAIRPERSON DILAN: Council Member
13 James?

14 COUNCIL MEMBER JAMES: Just one
15 question. Are there warning signs on the internet
16 to prevent what happened to this visitor from
17 Virginia who paid more than \$2,500 to stay in what
18 turned out to be an unsanitary and unsafe illegal
19 hotel?

20 LIZ KRUEGER: Not really. I mean
21 some of the websites put some reference statements
22 somewhere on the website saying if you are renting
23 your apartment you must follow all existing laws
24 and you must check a box saying you are.

25 Is that a warning to the person who

1
2 might be the renter? No, it is not. A
3 disproportionate number of the websites seem to be
4 targeted to foreign visitors. So, in fact, as the
5 city said, there is not a legal action that can be
6 taken against a website that misstates things.

7 When we started to deal with this
8 and make complaints and have the city's Office of
9 Enforcement explore, we found more and more it was
10 only on non-English speaking websites.

11 COUNCIL MEMBER JAMES: Second
12 question, as part of your bill, the legislative
13 intent that's usually stated in the preamble, does
14 it talk about this issues of unintended
15 consequences and that you're only, try to parcel
16 it out, focusing primarily on the quote/unquote
17 bad actors?

18 LIZ KRUEGER: It is clear from the
19 bill in the intent language that this is a
20 complaint-driven system. So, in fact, if nobody
21 is making a complaint, there is no intention of
22 action and there is no action.

23 COUNCIL MEMBER JAMES: Thank you.

24 CHAIRPERSON DILAN: Thank you,
25 Council Member James. Thank you, Senator Krueger.

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2 LIZ KRUEGER: Thank you very much
3 for having me today.

4 CHAIRPERSON DILAN: Thanks. The
5 next panel will be Sarah Meier-Zimblar, Sarah
6 Malloy-Good, and Paul Sawyer. They'll be
7 followed by Jackie Del Valle, Matt Klein and Marti
8 Weithman. That'll be the next panel after this
9 one. I guess you can start in the order you were
10 called up.

11 SARAH MEIER-ZIMBLER: My name is
12 Sarah Meier-Zimblar and I'm here to read comments
13 from State Senator Tom Duane.

14 My name is Tom Duane and I
15 represent New York State's 29th Senate District,
16 which includes the Upper West Side, Clinton/Hell's
17 Kitchen, Greenwich Village, and part of the East
18 Side, including the East Village, Stuyvesant Town,
19 Peter Cooper Village and Waterside Plaza.

20 Thank you for the opportunity to
21 present testimony before the New York City
22 Council's Committee on Housing and Buildings today
23 regarding Introduction 404, which relates to the
24 fines for illegal conversions from permanent
25 residences to hotels. I applaud Council Members

1
2 Gale Brewer and Speaker Christine Quinn for this
3 bill and ask the Committee to support this vital
4 piece of legislation.

5 The problem of apartments in Class
6 A residential buildings being converted into
7 transient hotel units should not be understated.
8 For close to a decade my district and many other
9 parts of New York City have seen an explosion of
10 such conversions. These illegal hotels create
11 hazardous conditions for short-term visitors and
12 permanent residents alike, and undercut the
13 legitimate hotel industry that is such an
14 important part of New York City's economy.

15 Illegal hotels are dangerous to
16 those who stay in them because residential
17 buildings are not bound by the same strict fire
18 and building codes as are legitimate hotels.
19 Illegal hotel rooms also tend to fall far below
20 standards in terms of security, room quality and
21 amenities. These conditions not only leave
22 visitors vulnerable to harm, but also damage the
23 city's reputation, and therefore harm tourism and
24 the legitimate hotel industry.

25 Further, as you will no doubt hear

1
2 from many tenants, advocates, and legislators
3 today, illegal hotels are bad for New Yorkers.
4 Their proliferation greatly exacerbates our
5 already severe lack of affordable housing by
6 taking literally thousands of residential units
7 off the market.

8 Moreover, tenants living in
9 buildings with illegal hotels suffer from the lack
10 of security and excessive noise that result from
11 transient guests coming and going without regard
12 for their neighbors.

13 Tenants in these buildings also
14 commonly face extreme harassment from landlords
15 who have realized that their apartments would be
16 worth much more as illegal hotel rooms than as
17 homes for permanent residents.

18 This widespread illegal practice
19 needs to be attacked accordingly. In 2010, the
20 New York State Legislature passed legislation that
21 I co-sponsored that clarified that Class A
22 multiple dwelling residential buildings may only
23 be used as long-term residential housing. Then-
24 Governor David Paterson signed this bill into law
25 and it went into effect on May 1, 2011.

1
2 Regrettably, despite the new law,
3 illegal hotels continue to proliferate in my
4 district and across the city.

5 While the Mayor's Office of Special
6 Enforcement, which has the task of investigating
7 and prosecuting operators of illegal hotels, works
8 tirelessly to combat this scourge on New York
9 City's affordable housing stock, the agency is
10 overworked and under funded. Currently, it only
11 has enough staff for a single enforcement team to
12 investigate illegal hotel complaints throughout
13 the City. I am very grateful to OSE Director
14 Kathleen McGee as well as her predecessor at the
15 agency, Shari Hyman, for their exceptional
16 dedication to this fight, but they have not been
17 given the resources needed to succeed.

18 One crucial tool that would
19 significantly aid enforcement efforts is increased
20 and graduated penalties. We cannot put an end to
21 the operation of illegal hotels in our City when
22 the punitive measures facing landlords who are
23 found guilty of this crime are pitiable. Under
24 the current fine structure, a building's owner may
25 be assessed a one-time fine of \$800 regardless of

1
2 how many illegal hotel units he or she operates.

3 Considering that illegal hotel
4 rooms may rent out for several hundred dollars a
5 night, and there are often multiple rooms being
6 used in this fashion, an \$800 fine is a laughable
7 punishment that a landlord could easily write off
8 as a cost of doing business. By allowing fines to
9 be issued for every unit used illegally, with
10 compounding fines for repeat offenses,
11 Introduction 404 would establish penalties that
12 are sufficient to compel lawful conduct.

13 I thank the City Council's
14 Committee on Housing and Buildings for allowing me
15 to submit this testimony and I urge you to pass
16 Introduction 404.

17 CHAIRPERSON DILAN: By any chance,
18 do you have any copies of your testimony?

19 SARAH MEIER-ZIMBLER: Yes.

20 CHAIRPERSON DILAN: If you could
21 give them to the sergeant-at-arms so that we could
22 have them. Then the next representative can
23 proceed.

24 SARAH MALLOY-GOOD: Hi, Sarah
25 Malloy-Good from Assembly Member Deborah Glick's

1
2 office. I will be very brief. You have the full
3 testimony for the record.

4 Thank you for the opportunity to
5 testify. Assembly Member Glick represents the
6 66th Assembly District which includes Greenwich
7 Village, East Village, parts of Tribeca and this
8 building.

9 The Assembly Member is in strong
10 support of Intro 404. The proposed changes to the
11 code would complement the Illegal Hotels Law that
12 was enacted earlier this year by removing the
13 financial incentive to break the law.

14 Despite the existing legislation,
15 illegal hotel rental of residential units is still
16 a widely unchecked practice that poses a great
17 threat to our housing stock and our quality of
18 life of the residents of the city.

19 In order for this measure to be
20 successful, though, increased fines are not
21 enough. There must also be appropriate inspection
22 and enforcement and a system in place to enforce
23 fines once they are administered. Any deterrent
24 achieved through the fear of imposed fines will
25 quickly be eroded by a failure to collect fines.

1
2 Illegal hotel operators must also know that the
3 fines cannot be abated.

4 As the Senator mentioned earlier,
5 we have a great shortage of affordable housing in
6 the city and a lot of the units that are being
7 used for illegal hotels are affordable housing
8 units, especially in the Assembly Member's
9 district. So if we were able to return these
10 units back to affordable housing stock, it would
11 make a great impact on the number of units that
12 were available for those residents of the city
13 that need affordable housing.

14 Additionally, illegal operators are
15 disadvantaging the legitimate hotels that are held
16 to high standards of cleanliness, meet
17 requirements for fire and safety codes and also
18 pay the occupancy taxes to the city.

19 Finally, there are the safety
20 concerns that transients are being granted access
21 to residential buildings as well as the impact
22 they have on the quality of life of the residents
23 in the building.

24 Thanks for the opportunity to
25 testify. We believe that Intro 404 takes a great

1
2 step towards disincentivizing illegal hotel
3 operation.

4 CHAIRPERSON DILAN: Thank you.

5 PAUL SAWYIER: Good afternoon. My
6 name is Paul Sawyer. I'll be giving testimony on
7 behalf of Assembly Member Linda Rosenthal.

8 Good afternoon. I am Assembly
9 Member Linda B. Rosenthal, and I represent the
10 67th Assembly District, which includes the Upper
11 West Side and parts of Clinton/Hell's Kitchen in
12 Manhattan. I am testifying today in support of
13 Intro. 404 to amend the New York City Building
14 Code to classify violations issued when buildings
15 intended for residential use are illegally
16 converted to hotel occupancy as immediately
17 hazardous violations.

18 The bill up for consideration by
19 this committee would increase the penalties for
20 each illegal hotel violation to between \$1,000 and
21 \$25,000 and moreover adds a per diem fine of
22 \$1,000 for each day that the violation is not
23 cured.

24 Since I took office in 2006, I have
25 waged a tireless fight alongside tenants,

1
2 advocates and other elected officials to preserve
3 our rapidly vanishing affordable housing stock
4 from landlords who illegally use residential
5 apartments as hotel rooms. Residents of illegally
6 converted buildings not only face noise, safety
7 and quality of life concerns from a stream of
8 unknown strangers entering and leaving buildings
9 not equipped for such use, but also face baseless
10 eviction themselves, as landlords seek to bloat
11 their record profits by any means necessary.

12 In my first term in office, I
13 checked into the Imperial Court, a notorious
14 illegal hotel operating in a Single Room Occupancy
15 building on West 79th Street, to prove that the
16 landlord's denials of the building's use as an
17 illegal hotel was false and to call attention to
18 the fact that illegal hotels were overrunning my
19 district.

20 Rent-regulated tenants in
21 particular depend on the protections for their
22 tenancy and rent to make ends meet; forcing them
23 and other tenants out of the communities in which
24 they have lived for decades simply to provide
25 tourists with a cheaper room than offered by

1
2 legitimate hotels is completely unacceptable and
3 diminishes this great City.

4 Landlords of illegal hotels,
5 however, were protected by a provision of Building
6 Code which required that more than half of units
7 in residential buildings be used illegally for
8 transient occupancy before action could be taken.
9 This loophole allowed for flagrant misuse of
10 residential buildings in New York City to continue
11 unchecked.

12 To hold landlords like Imperial
13 Court's accountable, I co-sponsored Assembly Bill
14 A.10008 which was signed into law in 2010 to close
15 the legal loophole and classify illegal occupancy
16 of residential dwellings as occupancy for less
17 than 30 days.

18 After its passage, the Mayor's
19 Office of Special Enforcement has used this law to
20 inspect illegal hotels throughout the City and
21 issue violations and even vacate orders in cases
22 of serious Fire Code violation. The law is a
23 critical tool in fighting to rid our City of
24 illegal hotels, and we have seen some great
25 victories since it went into effect in May.

1
2 Just in November, three SRO
3 buildings in my district that were illegal hotels:
4 the Montroyal, the Continental and the Pennington,
5 settled with the City after a long and drawn out
6 legal battle to pay \$600,000 for the misuse of
7 their property and commit to returning all units
8 to permanent, affordable housing.

9 This settlement shows that the use
10 of SRO buildings as hotels is indeed illegal.
11 Furthermore, the imposition of fines of \$750 per
12 day for each unit found to be used as an illegal
13 hotel should serve as a warning to other operators
14 of illegal hotels that the same punishment may be
15 in store for them.

16 However, landlords who run illegal
17 hotels reap record profits and see the fines they
18 receive for illegal hotel violations as merely the
19 cost of doing business. Simply put, stronger
20 penalties will deter such thinking and help show,
21 landlords that running an illegal enterprise is
22 not an option in New York City.

23 The New York City Building Code
24 places specific requirements on buildings zoned as
25 hotels for good reason. A lack of secondary

1
2 egress or sprinkler system-required in all hotels
3 but not under residential zoning-is an inherent
4 safety hazard. Illegal hotels also frequently
5 have insufficient security measures to ensure that
6 persons entering the building are residents or
7 guests.

8 Compounding this is the simple fact
9 that many of these residential units are illegally
10 converted to illegal hotel rooms without proper
11 permits from and without amending building plans
12 on file with the New York City Department of
13 Buildings. Serious safety hazards frequently
14 emerge, such as illegal, full-height partitions
15 which are put up in converted apartments to
16 maximize the number of customers the hotel can
17 serve while leaving guests potentially without
18 access to a fire escape in case of an emergency.

19 The savings that guests of illegal
20 hotels get comes not merely at the expense of
21 tenants forced out of their apartments, but also
22 at the expense of critical safety measures and
23 oversight the building forgoes in illegally
24 converting an apartment.

25 The penalty for breaking New York

1
2 law should not be regarded by landlords operating
3 illegal businesses as an operating expense or cost
4 of doing business in New York City. We must send
5 a clear message that operating illegal hotels is
6 not only unacceptable and illegal, but is not and
7 will not be a viable business for our City's
8 landlords.

9 I will continue to fight to prevent
10 illegal hotel owners from robbing this City of its
11 precious affordable housing stock and forcing
12 tenants struggling to make ends meet into
13 homelessness.

14 Our tenants need to see that we
15 stand with them rather than the landlords who are
16 exploiting them, and so I urge the Council to pass
17 this legislation to bolster this fight and help
18 hold landlords accountable for their actions.

19 Thank you.

20 CHAIRPERSON DILAN: Thank you. Do
21 any of my colleagues have any questions for this
22 panel? If not, we'd like to thank you all for
23 your time and testimony. We'll have Jackie Del
24 Valle, Matt Klein and Marti Weithman. They will
25 be followed by Anne Cunningham, Pam Wyman and

Kathleen Treat. That will be the next panel.

[Pause]

JACKIE DEL VALLE: My name is Jackie Del Valle, and I'm actually testifying as board chair for the Met Council on Housing.

I'd first like to thank the Council for convening this hearing and particularly for Council Member Brewer for her leadership and sponsorship of the bill. It's been a pleasure to work with you the past three years.

Met Council on Housing is a city-wide tenant advocacy group that has been around for over 50 years. We run a twice-weekly call-in hotline for tenants and regularly get calls from tenants reporting that there are illegal hotels in their residential buildings. The tenants are frustrated and scared and are confused as to how this can be happening. We advise them to call 311 to make a complaint and reach out to their local elected officials.

Illegal hotels are a serious threat to our city's scarce affordable housing as owners and management companies push out long-time tenants in favor of more lucrative, yet illegal,

1
2 daily and weekly vacation rentals. We were in
3 full support of the bill passed by the State in
4 July of 2010, clarifying the long-standing
5 illegality of renting out Class A apartment
6 buildings for transient use.

7 It's been our experience that the
8 state bill alone has not been sufficient to stop
9 illegal hotels. Tenants who make complaints often
10 find it takes months to get illegal hotel
11 violations written and once the violations are
12 written, it's unclear as to how effective the
13 violations are at stopping the illegal use.

14 Sometimes the illegal use stops,
15 but then it restarts again. Sometimes, the owners
16 simply switch business models. Instead of finding
17 permanent residents, there are now college
18 students, or corporate rentals, or families from
19 shelters who are there only temporarily.

20 To this end, we have four
21 recommendations. First, the City Council must
22 pass Intro 404 to make illegal hotels immediately
23 hazardous violations and raise the fines. As it
24 stands now, and we've heard this throughout the
25 day, what the City would ultimately collect from a

1
2 landlord, assuming that the case is even
3 successful and doesn't drag out indefinitely,
4 would only around \$800. This is a joke.

5 Making the violation immediately
6 hazardous sends a message that the City takes the
7 safety of its residents and tourists seriously and
8 will not tolerate abuses from landlords.

9 Secondly, we recommend the City
10 hire more inspectors. Although we know that the
11 city budget is tight, the new higher fines should
12 help the City pay for more inspectors.

13 Third, the Department of Finance
14 should be more heavily involved in enforcement
15 efforts in order to collect the back hotel taxes
16 on the illegal operators.

17 And last, the units must be closely
18 regulated by the City and State to ensure that
19 they are returned to the housing market as
20 permanent housing. That they're not sitting
21 empty, that if they were deregulated, that is was
22 done properly and that they're re-regulated in
23 cases where that's allowed and that the city
24 doesn't simply turn it over to another part of
25 their agencies but that these are meant to be

1 permanent affordable housing. Thank you.

2 CHAIRPERSON DILAN: Thank you.

3 MATT KLEIN: Good afternoon.

4 Thanks for giving me the opportunity to speak
5 tonight. I'll say good evening, I guess.

6 CHAIRPERSON DILAN: You can pull
7 that closer.

8 MATT KLEIN: I can move it a little
9 closer.

10 CHAIRPERSON DILAN: I think it
11 should come close to you pretty easily. You
12 looked a little uncomfortable leaning over there.

13 MATT KLEIN: I just wanted to get
14 closer to Marti. My name is Matt Klein. I'm an
15 organizer for Housing Conservation Coordinators.
16 We're a tenants' rights and services group that
17 served Clinton and Hell's Kitchen for almost 40
18 years.

19 I just want to apologize because
20 our Executive Director Sarah Desmond isn't able to
21 be here today. She's at a weatherization
22 conference in New Orleans. She would have loved
23 to be the person giving testimony. So I'm happy
24 to be here in her stead.
25

COUNCIL MEMBER: [off mic]

MATT KLEIN: I wouldn't mind being there either.

We have been fighting illegal hotels in our neighborhood and throughout the city for the past seven years as landlords turn apartment after apartment into hotels rooms.

We're the organization that assists tenants who are being harassed and scared out of their apartments by neglectful owners or management companies that run the illegal hotels.

More often than not, these hotel rooms have been, like we heard, illegally converted, the partitions are set up, the staircases are added, illegal duplexes and offices have been made with no additional safety features.

I was just talking to a bunch of tenants last night, and here are just some of the examples of things that are happening that you might not necessarily think.

Garbage, people think that they're in hotels, so they'll put garbage in the hallway, which can attract roaches and rodents and rats.

There are broken elevators because

1
2 they're being used by significantly more people
3 than should be and that really affects disabled
4 and elderly tenants.

5 There is no hot water, because if
6 you have seven or eight people living in an
7 apartment, they're using all the hot water that
8 the building would normally use.

9 Smoking, people are smoking in the
10 hallways. They're going up to the roof to smoke.
11 They don't understand that there are children and
12 potentially other at-risk people in the buildings
13 with them.

14 Every tenant who lives in these
15 buildings, whether you're regulated or market
16 rate, are faced with issues. The regulated
17 tenants get the decreases in services and the
18 market rate tenants, if they complain, are at risk
19 of not having their leases renewed. So it becomes
20 an issue not only an affordable housing issue,
21 which we are really driven by to preserve the
22 affordable housing, but a housing issue period,
23 because nobody's safe in these apartments.

24 We worked hand in hand with the
25 West Side Neighborhood Alliance, the SRO Law

1
2 Project and all of these other elected officials
3 you've heard today, to try to pass the state
4 legislation which we are hugely thankful was
5 passed. Many thanks to all the City Council
6 Members who wrote letters of support and Mayor
7 Bloomberg and his administration for being
8 supportive in writing the bills as well.

9 It doesn't do enough. It doesn't
10 do enough to prevent this problem from continuing,
11 and we're getting more and more calls.

12 CHAIRPERSON DILAN: This bill
13 doesn't do enough?

14 MATT KLEIN: No, no, no, no, the
15 state bill.

16 CHAIRPERSON DILAN: Okay.

17 MATT KLEIN: This bill would do a
18 lot more. I mean I receive calls--we have a
19 database with over 350 apartments and complaints
20 that we've collected and that doesn't even include
21 many of the outer boroughs. We're starting to
22 receive more calls from brownstone Brooklyn, Park
23 Slope, Williamsburg, Greenpoint, Bushwick. Every
24 once in a while, places that I'm not surprised by
25 because they're tourist destinations. It's

1
2 becoming a problem citywide.

3 So the \$800 doesn't do enough to
4 stop it.

5 CHAIRPERSON DILAN: I never thought
6 Bushwick would be a tourist destination.

7 JACKIE DEL VALLE: They had a
8 vacate order there.

9 CHAIRPERSON DILAN: It's becoming.

10 MATT KLEIN: Yeah, wasn't there?
11 We'll get into that later. So we're just here.
12 We have monthly meetings with our West Side
13 Neighborhood Alliance and the Illegal Hotels
14 Working Group and our committee to document the
15 problem, and it's only getting worse. This bill
16 would be a huge asset to preventing this from
17 further going on. We really appreciate your
18 support. Again, thank you for letting me be here.

19 My written testimony is a little
20 different. I'd be happy to answer any questions.
21 You're all invited to come to a town hall or any
22 one of our Illegal Hotels meetings to kind of hear
23 more from tenants who weren't able to be here
24 today. I also distributed five more written
25 testimonies from other tenants who couldn't be

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here.

CHAIRPERSON DILAN: We have them and we'll make sure they get entered into the record.

MARTI WEITHMAN: Thank you, Chairman Dilan for the opportunity to testify today, and thank you for convening the hearing. I'd also like to thank Council Member Brewer for proposing Intro 404, which is essential legislation needed in this city in order to enforce the illegal hotels that are proliferating in the city.

My name is Marti Weithman. I am the Project Director of Goddard Riverside's SRO Law Project. The SRO Law Project was formed in 1981 to preserve single-room occupancy housing. We provide free legal representation in organizing and advocacy services for SRO tenants and some apartment tenants on the West Side of Manhattan.

SROs, because of their layout, are ripe for illegal hotel rentals. This is an issue that we see across the Upper West Side. We also see it down in the Chelsea area and we've seen it more and more in Harlem as well.

1
2 Intro 404 would give the city the
3 tool it needs in order to enforce the illegal
4 conversion of residential units into tourist
5 rentals. While the state legislation that went
6 into effect in May of this year has been an
7 incredible step forward in the enforcement and
8 cracking down on these illegal hotels, the fines
9 are just insignificant. And as you've heard
10 throughout the day, it is just a cost of doing
11 business for these illegal hotel operators.

12 Amending the Building Code to make
13 more than one violation or a subsequent violation
14 an immediately hazardous violation is incredibly
15 powerful. It would enable the city--it would give
16 the city the leverage that they need in order to
17 assess the fines that will provide the incentive
18 to stop the illegal rentals that the SRO owners as
19 well as the apartment owners are doing throughout
20 the city.

21 This is a safety issue. It's a
22 safety issue for the permanent tenants in these
23 buildings as well as the unsuspecting tourists who
24 are coming to these buildings and renting these
25 rooms.

1
2 It is also quality of life. As
3 you've heard, there are significant issues that go
4 on in these buildings for the permanent tenants
5 and it affects their daily lives. They have
6 people coming and going at all hours of the day
7 and night. They don't know who their neighbors
8 are in their own community. In addition, you have
9 all of the extra issues with sanitation and the
10 sanitary conditions in these buildings,
11 particularly in SROs where the bathroom areas are
12 shared in the common areas.

13 Finally, this is an affordable
14 housing issue. This is affordable housing that is
15 being taken away from New Yorkers. These illegal
16 hotel operators are being rewarded by not being
17 assessed fines to deter them from these illegal
18 hotel rentals.

19 We are in strong support of Intro
20 404. Again, thank you very much for the
21 opportunity to testify today. We encourage you to
22 pass Intro 404.

23 CHAIRPERSON DILAN: Thank you all
24 very much. Any questions or statements from my
25 colleagues?

2 COUNCIL MEMBER BREWER: Just to say
3 thank you.

4 CHAIRPERSON DILAN: She talks about
5 you all the time. I have to say that. Thank you
6 all for your time and testimony. Anne Cunningham,
7 Pam Wyman and Kathleen Treat. They'll be followed
8 by Allison Tupper, Tom Cayler, Vivian
9 Riffelmacher, and please correct me if I
10 mispronounce the name, and it looks like Jayne
11 Jillian or Jillier. Please correct me. I see
12 only two. Who are you, ma'am?

13 ANNE CUNNINGHAM: I'm A.C., Anne
14 Cunningham.

15 CHAIRPERSON DILAN: And ma'am, you
16 are?

17 KATHLEEN TREAT: Kathleen Treat.

18 CHAIRPERSON DILAN: So I'm going to
19 assume that Pam Wyman is no longer here. I can
20 take two more. Vivian is here. Tom is here. Is
21 Allison Tupper here? We're going to do the ladies
22 first. Tom, you're going to have to hang. I took
23 you for a proper gentleman, and I knew you would
24 understand.

25 TOM CAYLER: [off mic]

[Laughter]

CHAIRPERSON DILAN: Okay, so Ms. Cunningham?

ANNE CUNNINGHAM: Good afternoon. My name is Anne Cunningham. I am a housing specialist and advocate for tenants. Since 1979, I have been assisting SRO and residential hotel tenants with housing issues. Today, I am testifying on behalf of the Tempo Hotel Tenants Association, formerly the Commander Hotel, located on the Upper West Side.

The Tempo Hotel is a Class A residential hotel with SRO units. Units have been rented on a transient basis since 2003, to tourists. Abuses and harassment against tenants have escalated and building services have declined.

The presence of transients in the Tempo Hotel has led to hazardous conditions, a high element of crime, drugs, prostitution, fires, inadequate security, constant elevator breakdown, illegal construction, falsifying and recycling work permits by Aimco, the building owner.

One tenant describes feeling

1
2 unsafe, with hookers, strippers and call girls in
3 the hallways and finding pimps with gold front
4 teeth, waiting in the laundry room while the
5 hookers service the clients.

6 I also have, which I didn't include
7 in my testimony, a two-page review from the
8 internet, a traveler review, where tourists
9 actually, once again mentioned the prostitutes. I
10 will hand this in.

11 I strongly urge and support the
12 passage of Intro 404, 2010, which would increase
13 fines for illegal conversions of residential units
14 into commercial hotel rooms and also increase the
15 fines. This bill would make violations
16 immediately hazardous, increase the penalties and
17 hopefully shut down the illegal operations once
18 and for all.

19 The bottom line is that New York
20 City is losing thousands of affordable permanent
21 housing. Intro 404, 2010, must be voted upon and
22 enacted immediately.

23 Thank you, once again, for the
24 pleasure of participation and for your work in the
25 past on illegal hotels and for your continued

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commitment.

CHAIRPERSON DILAN: Thank you. Ms. Treat, I believe you were next.

KATHLEEN TREAT: Hi, can you hear me?

CHAIRPERSON DILAN: Yes.

KATHLEEN TREAT: I'm Kathleen Treat. I'm Chair of the Hell's Kitchen Neighborhood Association. HKNA supports 404.

Bravos to the OSE, the DOB and the New York Fire Department. There is no way we could possibly thank Gale Brewer enough. The same is true for our wonderfully articulate Senator Krueger. I especially wanted to thank Senator Krueger for permission to use the term "bad guys".

With respect to Mr. Fidler, it's clear I think to everybody in this room who the bad guys are. We need the Council to morph Kathleen McGee's significant concern into critical priority. We need to add to the OSE's staff, so that they can do a better job. We know that's expensive. We'd like to pay for that additional staff by really raising those fines. We'd ask the Council to raise the first repeat penalty to

1
2 \$50,000. We need to get those bad guys where they
3 live. Thank you.

4 CHAIRPERSON DILAN: Thank you, MS.
5 Treat. It's the girls doing the bills. The girls
6 are doing the bills here.

7 ALLISON TUPPER: Good afternoon.
8 I'm Allison Tupper. Thank you for the opportunity
9 to speak and for this Intro, which I am supporting
10 wholeheartedly.

11 We've heard lots of good reasons
12 for it. I want to emphasize one, which is
13 affordable housing. We need to get these
14 apartments back on to the regulated rolls and save
15 our affordable housing. If we want to have the
16 rich diversity that this city has, we need to keep
17 diversity of income as well as diversity of
18 occupation and every other kind of diversity. So
19 we need to keep affordable housing. We need to
20 get those apartments back into the regulated
21 stock.

22 I noted that some 800 311,
23 thousands of complaints that went in, 400
24 inspections, 1,000 violations, and 49 vacate
25 notices. I think we have to strengthen our

1 enforcement because it's not enough to get these
2 guys to pay fines. We have to get them to stop
3 using their hotel rooms. We have to vacate those
4 apartments and turn them back into regulated
5 apartments. There is something wrong there.
6 Forty-nine is not enough vacate notices.

7
8 Thank you for the opportunity to
9 speak.

10 CHAIRPERSON DILAN: You can stay
11 for now just in case somebody may have a question.
12 You can sit there, but just don't go too far away.

13 VIVIAN RIFFELMACHER: Hi. My name
14 is Vivian Riffelmacher. I want to thank you for
15 this opportunity, Chair Dilan. I want to thank
16 Gale Brewer for all her work with this issue.
17 This has been going on for a long time.

18 Basically, I just want to testify
19 in support of Intro 404. I'm a founding member of
20 West Side Neighborhood Alliance. I've served on
21 the steering committee since 2007.

22 I was first alerted to the menace
23 of illegal hotels after Dexter House, the
24 residential SRO where I lived, was taken over by
25 new management in the spring of 2004 and converted

1
2 into a commercial youth hostel.

3 The effect of transient rentals is
4 alarming enough in a regular apartment building,
5 but in an SRO where tenants live in single rooms
6 and share common bathroom facilities, the effect
7 is catastrophic.

8 On a regular basis, eight to ten
9 backpackers were crammed into bunk beds in rooms
10 big enough for occupancy by one or two persons.
11 The exit doors open against egress in this
12 building, creating a potential for lethal disaster
13 in the event of a fire. The people who run these
14 dangerous and slipshod operations have no regard
15 for the health or safety of tourists or tenants.

16 What was obvious was that the
17 transient traffic was being used as a weapon by
18 the management against the rent-stabilized tenants
19 living in the building. The building was open at
20 all hours, drug dealers made rounds, and like all
21 of the commercial hotels, we were hit with
22 infestations of bedbugs.

23 Never knowing if the room next to
24 you would be used by hookers to service clients or
25 for a drunken party of screaming teenagers

1
2 effectively made life unbearable for the long-term
3 tenants. Complaints to the front desk were met
4 with abuse and ridicule.

5 For the tourists, there was no
6 screening process for young people looking for a
7 cheap place to stay, nothing to indicate that this
8 or that youth hostel might be illegal or even
9 dangerous.

10 I'm hopeful Intro 404 will empower
11 city and state agencies to finally put a stop to
12 these operations. Raising the fines for these
13 penalties I hope will help discourage do-it-
14 yourself hostels as a business model. I would
15 love to see OSE expanded and more funding, but of
16 course, that's my big wish list. Thank you.

17 CHAIRPERSON DILAN: Thank you. Are
18 there any questions for the panel? Council Member
19 Brewer?

20 COUNCIL MEMBER BREWER: Thank you.
21 Very quickly, Vivian, do you think that the
22 websites, because I know you have a lot of
23 computer savvy, are they places that the tourists
24 here about this locations and do the tourists go,
25 obviously, for the least expensive housing? I

1
2 assume that's why these owners are converting. Is
3 that your impression?

4 VIVIAN RIFFELMACHER: Very much so.
5 A lot of these websites are accessible through
6 Expedia or Orbitz. So if you're just looking for
7 a cheap vacation package and you're coming from
8 overseas, it's incredibly easy to book in these
9 buildings. For kids looking for youth hostels, it
10 was a real legitimate kind of trap. It was very
11 easy to do and the information was there on the
12 web and there was no indication that these
13 buildings were unsafe.

14 COUNCIL MEMBER BREWER: Thank you.

15 CHAIRPERSON DILAN: Thank you all
16 for your time and testimony. We just read the
17 reviews that were put on, Ms. Cunningham, and they
18 were pretty interesting reviews.

19 Next will be Tom Cayler, Pierre
20 Defendini. Still here? How about Gail Sherman or
21 Shemin?

22 GAIL SHEMIN: Shemin.

23 CHAIRPERSON DILAN: Shemin. Okay.
24 Then I called Jayne Jillian or Jolian earlier. Is
25 Jayne here? Humans Civil Society? I've got two

1
2 more. Larry Morris? Maria Akiiki? You can join
3 this panel. Say it again? You don't have to
4 testify if you don't want to, but I have you
5 signed up to testify. So if you want to, you can
6 come forward. We don't have a card for you.

7 MALE VOICE: [off mic]

8 CHAIRPERSON DILAN: Say it again?
9 Mel, you were actually the next name I was going
10 to call. Come on up. There's one more. Is there
11 a Monica Oliveira still here? Why don't you just
12 come forward? You can give your testimony along
13 with this panel. Maybe you can sit up front here
14 and then one can step off this way and we can
15 accommodate. What's your name, sir?

16 CHARLES SEELIG: Charles Seelig.

17 CHAIRPERSON DILAN: Charles Seelig.
18 The confusion with you is when you write--just for
19 future if you ever come back, if you write on your
20 testimony "for the record" which we believe you
21 did, once you write "for the record" we assume
22 that you're not going to testify and that you're
23 just going to submit it. So we'll call you up.
24 You can actually come up on the next panel. It
25 will be no problem. You'll be able to make your

1
2 testimony. Why don't we begin in the order that
3 you were called. Tom, we thank you for being a
4 gentleman and deferring. You certainly can lead
5 off.

6 TOM CAYLER: Thank you for the
7 title, Chairman. My name is Tom Cayler. I'm the
8 Chair of the West Side Neighborhood Alliance
9 Illegal Hotel Committee.

10 We've been talking a lot about the
11 laws and we've been talking a lot about what we
12 need. We've been talking a lot about the danger
13 of illegal hotels. Let me just quickly run you
14 through what it's like on the ground and what it
15 actually takes to get a violation for an illegal
16 hotel placed.

17 With the West Side Neighborhood
18 Alliance, we get calls from all over the town.
19 Now, really, I think when Kathleen McGee talked,
20 she pointed out that we now have illegal hotels in
21 all five boroughs. So that's new and different
22 for us, who have been working on this for about
23 seven years now.

24 For instance, we have a location
25 we're dealing with right now, 323 West 47th

1
2 Street. The tenants called us in November of
3 2010. They reported to us that there was illegal
4 hotel activity happening in their building and
5 asked us what to do about it. We asked them to
6 come in and meet with us.

7 They did. They sat down. Jose
8 Conde [phonetic] came from the Speaker's Office,
9 Sarah Meier-Zimblar came from Senator Duane's
10 office. We talked to them about the problem. We
11 talked to them about the units that were being
12 used in the building. Jose and Sarah agreed that
13 they would put a letter together with our local
14 electeds and write to the owner and to the
15 management company and just say we have a problem
16 here, some tenants are complaining, would you
17 please meet with us. That letter was sent in
18 January of 2011. We never heard back from them at
19 all.

20 We met with the tenants again then
21 in May of 2011. We sat down with them and said,
22 okay, now what you need to do is to outline
23 exactly what units are being used as illegal
24 hotel, what the building is. We need to go
25 through, we need to dossier the building, find out

1
2 who the owner is. We need to find out if there
3 are other problems in the building. Then we'll
4 pass that information on to OSE and ask them if
5 they will please do an inspection.

6 Through Senator Duane's Office, we
7 did that. OSE went in to this building as well as
8 five other buildings which had also been reported
9 to us, on the same block, by the same owner, with
10 the same management company. OSE went in, in
11 August of 2011, and placed 33 violations for
12 occupancy contrary to, work without permit, to
13 conversion of units illegally on those units.

14 They were then subject to a hearing
15 at ECB on the 23rd of September, for which the
16 owner asked for an adjournment and was given
17 immediately. They were called back to ECB for the
18 1st of November. The owner asked for an
19 adjournment, which they were given immediately.
20 They were called back for December 8th, which
21 Jackie Del Valle of HCC and Sarah Meier-Zimblner of
22 Senator Duane's office and myself attended on the
23 8th.

24 We spent six hours at ECB. We got
25 through seven of the violations, of the 33. So

1
2 now we have to go back on the 12th of January of
3 2012.

4 So as yet, at this point in time,
5 though these violations have been placed, nothing
6 has happened at all, including the fact that even
7 with the violations on these units, the owner
8 hasn't stopped renting illegal hotel units in his
9 building.

10 The end of October, I went on their
11 website and I asked to see a unit in 323 West 47th
12 Street. I got an email back saying please give me
13 a call, Steve. I called Steve and said, Steve,
14 may I please come in and see this unit. I'm
15 getting married and we're having a big party, so
16 we'd like to have a unit the last week of
17 December. Would that be okay? He said, yes. He
18 provided us with keys. He sent us over to the
19 unit. We got access.

20 It's a lovely unit on West 47th
21 Street. This particular bedspread is later shown
22 in their own website right here. Steve took us
23 through. He showed us the whole building. On the
24 front door it says here's you're building, 323
25 West 47th Street, in five different languages.

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2 This is where you put the garbage. This is how
3 you check out. This is how you check in. This is
4 what you do if you have a problem. Please don't
5 steal the flat screen television. He then gave me
6 a lease and said here's a week lease.

7 Now, 323 West 47th Street is
8 registered as a rent-stabilized building. The
9 lease for one week in this apartment is for
10 \$3,900. One week, \$3,900.

11 Now, as yet, ECB has not gotten
12 through these violations. We have to go back on
13 the 12th and continue hearing them. In the last
14 meeting at ECB--

15 CHAIRPERSON DILAN: [interposing]
16 Do you mind if I take a look at that when you're
17 done? I got to see this.

18 TOM CAYLER: \$3,900. The reason
19 why this is such a problem is because it's so
20 lucrative. And they want it in cash, which even
21 makes it better.

22 Now, when we were at ECB, the
23 attorney for the owner said, well the owner didn't
24 know anything about this. The owner is not
25 involved with this. In fact, it must be the

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2 tenant who did this. And I have a lease, there's
3 a lease for the tenant in that building.

4 Then he submitted the lease. Which
5 I always questioned, you know the reasons why a
6 lawyer does anything. The lease is made out to
7 Cash Timeshare Inc., for unit 1C at 323 West 47th
8 Street. Now, the owner didn't know that this was
9 going to be an illegal hotel. Then the attorney
10 told us, well, we're actually going to evict the
11 attorney. The attorney for DOB said why are you
12 evicting them? Said, "oh, for illegal occupancy."

13 So what we're up against on the
14 ground is huge. It's been more than a year and a
15 third since we first got the report of illegal
16 activity here. We dossier the activity. We
17 documented the activity. We proved the activity.
18 OSE did their job. Now we are very, very slowly
19 working our way through the ECB process for which
20 they will get a fine of \$800. Thank you.

21 CHAIRPERSON DILAN: Sergeant, could
22 you get me a copy of the extra materials that he
23 has while the next presenter goes? Anybody who
24 could pay \$3,900--I don't think the Waldorf
25 charges \$3,900.

2 TOM CAYLER: That's the contract
3 which they gave me.

4 CHAIRPERSON DILAN: The Waldorf
5 might, but it's the Waldorf.

6 GAIL SHEMIN: Hi. My name is Gail
7 Shemin. I want to thank everybody who is involved
8 in all of this. I am a rent-stabilized tenant in
9 a 30-unit apartment building at 44 East End Avenue
10 on the Upper East Side, between 81st and 82nd.
11 I've been living there since 1968.

12 In 2008, after the building was
13 practically empty for two and a half years, which
14 I was very happy about because there was no noise,
15 in 2008 a new owner bought it and made it into an
16 illegal hotel. Mostly for Italian tourists,
17 because the owner lives in California, but he is
18 from Italy, and has an office in Verona. There is
19 a website called USA Bound, and you can see my
20 apartment building on it and videos of the rooms,
21 so that the potential tourists can see them.

22 I reported this matter to the
23 Mayor's Office, Liz Krueger, Micah Kellner, my
24 Assembly Person and Jessica Lappin, my Council
25 Person and I've called 311 a few times.

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2 About a month ago, police from the
3 Mayor's Special Task Force came to the building
4 and spoke with me and advised that they actually
5 interviewed tourists as they were leaving with
6 suitcases. I was so happy. They came during the
7 day. They said they're going to slap a lot of
8 violations. But in my opinion, so what? These
9 people should be removed, not get--I don't know
10 what violations are going to do. I just think
11 that the landlord should be told that he has to
12 rent the apartments to regular tenants. I don't
13 understand the violation part. But anyway, I
14 suppose it's better than nothing.

15 I don't think that the situation is
16 a safe one for me, with strangers going in and out
17 on a weekly or daily basis. The tourists are
18 mostly from Italy. They make a lot of noise by
19 talking in the hallway, slamming doors and rolling
20 suitcases up by my head.

21 There also exists a cleaning crew
22 who are there every day, and they, too, make a lot
23 of noise. Sometimes more than the tourists,
24 because especially on the day that people are
25 moving in and out. I hear banging and dropping

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2 and dragging over my head. A lot of it I think
3 has to do with beds that they store in the
4 basement. I mean I saw them, these folding beds
5 that they march in and out of the apartments,
6 depending on how many people are going to be
7 staying there.

8 I've lost my laundry privileges
9 which I had since day one. And I lost them in
10 2008. So I have to go to a Laundromat. They
11 locked the laundry room. The cleaning people do
12 towels and sheets in there every single day. They
13 work like dogs.

14 I must say I have like the best
15 superintendent that you can imagine and he keeps
16 the place really clean and the garbage and blah,
17 blah, blah. I had problems with Hurricane Irene,
18 my ceiling was leaking. I reported it. He said
19 he'll come in and paint whenever I want. In other
20 words, I am getting my services but I'm still--and
21 I was just offered a new lease, which won't be in
22 effect until April 1st, but I got the new lease in
23 mail.

24 In other words, everything is done
25 properly as far as services, but I don't want

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2 these people in my building. I don't want these
3 tourists. They're noisy. When people buzz me to
4 let them in, I say who is it and then somebody
5 with an accent says something and I ignore them, I
6 don't buzz them in.

7 About three weeks ago, there was a
8 whole bunch of teenagers that came with their
9 teenagers and they made so much. I mean luckily,
10 you know, they were there for a week and then they
11 left. But it was just horrible. They were going
12 from one to the other in their pajamas and making
13 a racket.

14 Anyway, I still send my--there's an
15 office set up on the first floor, which is one of
16 the apartments, and it's run by a manager named
17 Barbara. She lives in the building. She has an
18 apartment there. She's Italian too. There are
19 signs in the building in Italian, believe it or
20 not. I have called the police twice, and on the
21 last occasion one of them spoke fluent Italian. I
22 couldn't believe it. He went up to one of the
23 apartments where the kids were and had spoke to
24 them in their own language. But they did respond
25 to me both time, the police both times I called.

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2 One was for some drunken guys that were, like,
3 next door to me.

4 Anyway, I still send my rent checks
5 to the same management company, which I have for
6 years. That's about it. Of course, I support
7 Intro 404, which will raise the fines. But I
8 still don't understand why the landlords are just
9 not told to get their--you know, to close up their
10 business rather than give them fines. I don't
11 understand that. Would one of you just explain
12 that to me and then I'll be...

13 CHAIRPERSON DILAN: I think what
14 we'll do is we don't necessarily answer the
15 questions. What I will say is that the purpose of
16 the fine structure is to encourage them is to go
17 out of business. That's the whole purpose of the
18 fine structure. That's why in the initial
19 Introduction which is what we're reviewing, the
20 penalty structure is so high.

21 There are many different buildings
22 and there are many different cases and not every
23 building is as clear cut as the two examples that
24 you have brought forward. Those are two clear cut
25 examples of egregious illegal subletting of

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2 hotels, but not every building is as clear cut as
3 what you cited.

4 We're also dealing with a code that
5 dealt with this issue that has been put in place
6 before the creation of the internet. So it makes
7 it a little bit difficult from our perspective to
8 say, you know, hey you have to just stop doing
9 this.

10 We will, at some point, once we're
11 able to differentiate what is truly illegal and
12 what's acceptable, be able to get to it in some
13 blanket form, which I believe is what the
14 sponsor's goal is.

15 The next person to testify?

16 MARIA AKIIKI: I'm so glad you give
17 me a chance to speak but I just want to apologize
18 that the name I used there is not my real name.
19 The reason for that is when Senator Krueger, when
20 she was putting that law into whatever, when she
21 was campaigning, I was going around like
22 protesting against it, because I did vacation rent
23 at one time. So I was raided, you know by the
24 Mayor's Task Forces, you know, like I thank the
25 Majority Leader Fidler for questioning the task

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2 force for the Mayor because they're really not to
3 be trusted.

4 Because they were sitting here
5 saying that you could have someone in your house,
6 one guest or two guest and you're not going to be
7 penalized. That's not true. I live in my house,
8 it is a three-family home. The third floor and
9 the second floor is rented. But the first floor,
10 I live with my children, who are already grown
11 right now.

12 I had two vacation renters who were
13 there in the home. And each one, you know they
14 were there for a month. So they asked, when they
15 raided me, they asked, you know, how long have you
16 been here. They told them a month. So they
17 turned around again and asked them, you know, how
18 did she get you? So the guests, they answered and
19 said through a B and B. So they turned around,
20 since she got you from a B and B, you got to leave
21 and she got to be issued a summons.

22 But the fact is you're saying that
23 if someone stays in a home more than 30 days or 30
24 days that he should not be penalized. I was
25 penalized and up to now I--the judgment was issued

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2 to me and at the same time I had attempt to
3 legalize the business, which I had and put in the
4 paperwork to the Department of Buildings almost
5 for a year and a half. Every time it's always
6 objection, objection. They make you believe that
7 you're going to legalize. They tell you, oh, you
8 have to do the water sprinkler. You have to do
9 this or you have to do that. But yet, they do not
10 approve your application for that. So this is the
11 reason I lie to you and I'm sorry about that.

12 Before, I put my name there but
13 they raided me and they really treated me so
14 badly. They came to my property from 6:00 in the
15 evening. They made me sit in the hallway and
16 anytime I was, like, crying, they said, look at
17 her, she's breaking, she's breaking down, you
18 know. Until, like 2:00 in the morning, that's
19 when they called the Department of Buildings, they
20 wanted the Department of Buildings to shut down
21 the building completely, to give me like a vacate
22 order.

23 But when the Department--because
24 they were also accusing me of staying in that
25 house illegally. That my certificate of

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2 occupancy, you know, it was never--you know it was
3 only temporary. That, you know, I never got the
4 legal one after that. I was telling them, fine,
5 it is illegally, can you please today, it is, you
6 know, in the night, let's wait until Monday then I
7 call my attorney, why my certificate of occupancy
8 was never, you know, permanent. Because I paid
9 the attorney and I've been here maybe for 12
10 years. So I want to know why it's still illegal.

11 But they were still, like, making
12 mockery on me, laughing, I'm crying. You know,
13 I'm sitting in the hallway like a criminal. And I
14 was also quoting Senator Krueger's bill saying
15 that it is more than 30 days. You know, I don't
16 think that you should treat me like that. They
17 were telling me, no, no, no, like that.

18 So they give me this violation.
19 Now they are saying that I have to pay \$10,500
20 every month. You know, because one of them is
21 Class one, just for the revolving door, which that
22 is not there. My house is clean. And on top of
23 that, I had security cameras from the front and to
24 the back to protect my guests. And also I had
25 them which came there to check my water sprinkler

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2 in the hallway to make sure that it's operating,
3 which I paid, like I have a contract with them for
4 a year. They come every month to see that it's
5 working. It's not that I put my guests in
6 jeopardy.

7 I was really trying to do the right
8 thing, you know by legalizing, but they object and
9 object. And they came back and hit me with this
10 violation, you know, which they say that every
11 month I have to pay \$10,500 because one of them is
12 Class one, which also they send it to a different
13 address and I never got it. And then I was in
14 default.

15 So now I have put in the
16 application to reopen the case because my attorney
17 feels that that's not even class one, whatever
18 they give me.

19 CHAIRPERSON DILAN: And you said
20 it's a three-family residential.

21 MARIA AKIIKI: A home, yes. Yes.

22 CHAIRPERSON DILAN: In Manhattan or
23 Brooklyn?

24 MARIA AKIIKI: In Manhattan. And
25 also they give me a violation for the basement.

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2 They say that it was illegal, when I have
3 paperwork which shows that they approved it. I
4 had one who did the bathroom there and they
5 approved it and it was done. But I have a
6 violation on that too.

7 CHAIRPERSON DILAN: Issued from
8 Buildings or the Mayor's Office of Special
9 Enforcement?

10 MARIA AKIIKI: Whoever came. It's
11 the Mayor's Office Task Force, so everything they
12 turned it now to ECB.

13 CHAIRPERSON DILAN: Okay.

14 MARIA AKIIKI: But I have
15 documentation which shows that the basement is
16 legal. It was approved by them and the work was
17 done. You know, nothing else was done in the
18 building except the basement. But still they give
19 me a class one.

20 CHAIRPERSON DILAN: Violation.

21 MARIA AKIIKI: Yes, which they say
22 is more serious for not having--

23 CHAIRPERSON DILAN: [interposing]
24 For a three-family homeowner, that's a lot.
25 Depending on what you're doing, you know it's

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2 probably not justified, depending on what you're
3 doing. Just by sitting here I can't--I know you
4 said what you said, but by sitting here I can't
5 tell.

6 MARIA AKIIKI: I know you can't
7 tell.

8 CHAIRPERSON DILAN: This is partly
9 why we move cautiously. We know there are some
10 terrible people out there exploiting.

11 MARIA AKIIKI: I just want to say
12 that every vacation renter is not like bad guys
13 like the way they quote it because I know other
14 ones who are, like, by doing this, like a good
15 friend or with other people. You know, one of
16 them is Jewish. So his neighbors, they called 311
17 because he's Jewish and he don't even have
18 vacation renter. It's just because he's Jewish
19 and he has people coming there. They put
20 something on his address. It's so many things.

21 So why I'm here is because the law,
22 if they're going to make the law it should be
23 specific. This law was almost like for SROs but
24 it caught everybody in there. I'm a private
25 owner. I never had any money from the government.

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2 You know, I took a loan which is a high mortgage.
3 I feel that if I have two people in my house, you
4 know, who are 30 years, now, when they came and
5 asked them how long you going to stay here and
6 they say 30 days? How did she find you, from A
7 and B [phonetic], and then say, oh, she got you
8 from A and B, you know that's illegal. That's not
9 a proper way.

10 CHAIRPERSON DILAN: We certainly
11 thank you for your testimony. It was an
12 interesting case. It was a little bit different.
13 But again, depending on what was going on, it
14 would make it an unusual case or not. People tend
15 to know when they're being treated unfairly by
16 government.

17 So we'll move on to the next
18 gentlemen. You don't have to leave yet. There
19 may be questions for you. The next gentleman can
20 now testify.

21 MEL WYMORE: Hi there. My name is
22 Mel Wymore. I'm the former chair of Community
23 Board 7 and the current chair of the SRO Working
24 Group for Community Board 7.

25 Thanks for the opportunity to speak

1
2 today. I'm speaking in favor of the resolution
3 404 and also to thank Gale Brewer for her work on
4 this issue.

5 CHAIRPERSON DILAN: If I could stop
6 you, I could actually do this a little bit easier.
7 Are there any questions for the three individuals
8 that have testified? Council Member Fidler? I'm
9 going to hold you off just because it may be
10 easier in terms of getting some people out.

11 MEL WYMORE: That's fine.

12 CHAIRPERSON DILAN: Council Member
13 Fidler?

14 COUNCIL MEMBER FIDLER: To the last
15 young lady who just testified. When you got the
16 violation, did you have to hire an attorney and an
17 architect?

18 MARIA AKIIKI: No, I had the
19 architect already because, you remember I told
20 you, I had been trying to legalize for one year
21 and a half. First, I had one of the person who
22 worked in Department of Buildings who stole my
23 \$3,000 and he never did nothing. So when I
24 started asking for my money, he said he's going to
25 be report me since I'm doing illegal whatever.

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Then I kept quiet.

Then secondly, I hired the architect who is still working for me right now, you know who--

COUNCIL MEMBER FIDLER:

[interposing] But the architect that's working for you now is participating in your defense of this violation?

MARIA AKIIKI: We trying to--

COUNCIL MEMBER FIDLER:

[interposing] Or is it just an attorney?

MARIA AKIIKI: We're trying to reopen them right now, but they have not answered us.

COUNCIL MEMBER FIDLER: So have you hired an attorney for that purpose?

MARIA AKIIKI: No, no.

COUNCIL MEMBER FIDLER: No. Have you tried to hire an attorney for that purpose?

MARIA AKIIKI: I really don't have money because I only had two people in my house, you know, and I have--

COUNCIL MEMBER FIDLER:

[interposing] I was just curious if you had hired

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an attorney--

MARIA AKIIKI: [interposing] No, I didn't.

COUNCIL MEMBER FIDLER: --how much you were being asked to pay that attorney.

MARIA AKIIKI: I didn't.

COUNCIL MEMBER FIDLER: That went to the point that I was making to Senator Krueger.

MARIA AKIIKI: But even Senator Krueger, I call her several times. I asked her that in her bill she says that if it's 30 days or more that you're not supposed to be penalized. Why these people acted like that. She said my bill was not intended to do that, blah, blah, blah, but she not really try to help me.

COUNCIL MEMBER FIDLER: I understand. I'm not looking to go into your case into any great depth because it's your case. The point is that when fines are raised to a level where people have to go out--just getting the ticket is a fine in and of itself, even if you're innocent, as you may or may not be. If you're innocent and you still have to go out and spend \$1,500, \$2,500, \$3,500 on an attorney to defend

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2 yourself because you're facing a \$10,000 fine,
3 that can be pretty tough for someone who's trying
4 to pay a mortgage. That's just my point. That's
5 all. Thank you.

6 MARIA AKIIKI: Thank you.

7 CHAIRPERSON DILAN: Okay, if there
8 are no more questions, the three individuals that
9 just testified could step down.

10 We have Mel Wymore and Monica
11 Oliveira and Charles Seelig. This will be the
12 final panel.

13 [Pause]

14 CHAIRPERSON DILAN: Mr. Wymore, you
15 could restart your testimony from the beginning.

16 MEL WYMORE: Great. Thank you very
17 much. As I said, I'm speaking in support of 404,
18 but for different reasons than what has been
19 presented to you today.

20 All of the testimony about the
21 horrors of SRO abuse and tenant struggles and
22 mixed uses are true and founded. This increase in
23 fines and the re-categorization of a conversion
24 into a finable violation will help with the
25 enforcement of the laws. However, it will also,

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2 more importantly, allow us to have more dialogue
3 about creating a more sustainable set of
4 regulations around this kind of housing.

5 From a policy perspective, SRO
6 housing is a mess. Because of its tired history
7 over many decades and enforcement and non-
8 enforcement and different levels of uses over the
9 years and market forces that have come into play,
10 essentially Tom Cayler likes to call it a whac-a-
11 mole process. That you essentially, you know one
12 pops up and you whack it to try and enforce
13 against it and then another one pops up. You
14 heard the numbers. You have 49 vacate orders out
15 of thousands of buildings.

16 Speaking as someone from the Upper
17 West Side, we're talking about buildings, a very
18 large number of these buildings that are the high
19 density buildings, say 500 units, 200 units. They
20 have this strange set of regulations that govern
21 them, part of which are legacy regulations about
22 building safety. Those are Building Code
23 violations. Then there's another part of the
24 regulations that aren't very specific about
25 housing.

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2 We're using safety codes to try to
3 enforce affordable housing regulations. From the
4 Community Board's perspective what we would really
5 like to do is two things. One is absolutely
6 maximize permanent affordable housing in our
7 district. Two is to maintain a thriving tourist
8 culture on the Upper West Side because that's
9 where a lot of people come.

10 So I think there are opportunities
11 here to look for new models and really encourage
12 the Department of City Planning to take a look at
13 the entire set of legislation and zoning code
14 that's around these buildings and distinguish
15 these larger buildings from the smaller buildings,
16 like the person that just testified before me, and
17 also distinguish what the uses are and what the
18 various market forces are that come to bear on
19 those units, and really come up with a
20 comprehensive plan that does exactly what we're
21 talking about.

22 Balancing market forces against
23 regulations, affordable housing against building
24 safety and in fact maybe even opening new
25 incentives for people to build new affordable

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2 single-room occupancy hotels because they actually
3 meet a very important need. We have a lot of
4 singles that cannot afford to live in our city.
5 And we have no longer legal means for building any
6 safe buildings that allow for that to happen.

7 So there is a lot of work to be
8 done here. So we're very happy that the work is
9 being done to increase these fines and increase
10 our leverage to be able to have real conversations
11 with the SRO owners that would bring some
12 sustainable solutions to this problem.

13 Lewis, did I forget anything in
14 this? That's pretty much what we'd like to say.
15 Thank you for the first step in bridging those
16 policy issues, the housing policy with the safety
17 policy. I think this is the first step in doing
18 that. Thank you.

19 CHAIRPERSON DILAN: Thank you. Ms.
20 Oliveira?

21 MONICA OLIVEIRA: Yes, hi. My name
22 is Monica Oliveira. I just want to quickly
23 preface my statement that I unfortunately found
24 out about this meeting very last minute and I'm
25 getting over a cold, so please bear with me.

1
2 I own a one-bedroom co-op apartment
3 on 36 West 35th Street in Manhattan. I haven't
4 lived in my apartment for almost two years. My
5 apartment has remained vacant. The illegal hotel
6 businesses, of which there are two in my building,
7 comprise about six to ten apartments in a building
8 with only 36 apartments. This has been going on
9 since 2007. The noise and cigarette and drug
10 smoke are unbearable. You have studio and one-
11 bedroom apartments with at least six people, if
12 not more, in each apartment. My building is like
13 an out of control youth hostel, with young people
14 moving in and out ever several days and weeks.

15 Needless to say, I've wanted to
16 sell my apartment since 2007, but management and
17 the co-op board president throw obstacles in my
18 path. In order to sell, some people in my
19 building are forced to pay extortionate fees,
20 especially if they've complained.

21 In my case, I have been told that
22 if I wanted to sell my apartment, I would have to
23 sell my apartment to the co-op board president for
24 a pittance of \$200,000. Now, like I said, I live
25 on 36 West 35th Street in Manhattan and if you

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2 think a one-bedroom co-op apartment goes for
3 \$200,000, it does not.

4 Since I've complained about the
5 illegal hotel situation, I've been taken to court
6 twice. In 2010, the first time I was taken to
7 court, it was dismissed because management failed
8 to show up. This past year, and it's been an
9 ongoing litigation that's been going on for a year
10 because management keeps postponing court dates.
11 I've been taken to court for bogus allegations of
12 not paying maintenance and other fees. They're
13 just not cashing my checks.

14 Basically, the harassment and the
15 intimidation has been tremendous. In the past,
16 when I was living in my apartment, I've had to
17 endure ringing and buzzing of my door at all
18 hours. In the past, I was foolish, I admit, I've
19 paid thousands of dollars in bogus fees just to
20 get management and the co-op board president off
21 my back. Basically, I've had to put my foot down
22 and I just refuse to do that. That's why we're
23 still in litigation.

24 I want to sell my apartment. At
25 this point, you know, my dream has always been to

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2 live in Manhattan. I just think for, you know,
3 middle class people like myself, I think the dream
4 of living in Manhattan, it's been gone for quite a
5 while. That's why I'm here.

6 I'm also testifying on behalf of
7 many people in my building who happen to be
8 elderly and they're afraid. They don't even know
9 where to go. I've asked if they wanted to join me
10 to speak and they're just afraid. The co-op board
11 president, along with another co-op board member,
12 they just wield so much power. It's really
13 unfair.

14 Basically, I myself have gone to
15 several different agencies. I'm always given the
16 runaround that because my building is a co-op
17 building that no agency will handle the illegal
18 hotel situation. Subsequent harassment that I
19 face because of complaints, they don't handle
20 that. So I just want all buildings to be affected
21 by laws against illegal hotels.

22 Furthermore, the fines have to be
23 great enough for illegal hotel businesses to no
24 longer be profitable and viable as a business
25 model.

1
2 Just to add, I've suffered from
3 severe IBS, allergies and insomnia due to what
4 I've been subjected to. I'm just giving the
5 truncated version. So this obviously is a health
6 issue and not only a safety issue.

7 I want to commend Council Member
8 Brewer and Senator Krueger for their diligent
9 efforts regarding this. Thank you.

10 CHARLES SEELIG: Good afternoon.
11 My name is Charles Seelig. I'm a tenant at 13
12 East 9th Street here in Manhattan. I've been a
13 rent-controlled tenant for 40 years in the same
14 building. I'm also a volunteer phone counselor
15 for Met Council on Housing.

16 It's interesting to me to hear all
17 the different stories that have come across today,
18 because I hear this on the phone all the time. We
19 never know where to send people. Not only do I
20 have this probably myself, there's an illegal
21 hotel in my building, but I get lots of phone
22 calls every month, at least a dozen. We really
23 don't know where to send them except to their
24 Council Members, because there's no central place
25 to really make a complaint other than 311. Nobody

1
2 knew or understood what happened after the 311
3 call.

4 I found out that it went to DOB and
5 that DOB then refers to the Mayor's Office of
6 Special Investigations. Then the Mayor's Office
7 of Special Investigations is supposed to make an
8 inspection but they never do. I've had a
9 complaint in since June of this year and no
10 inspection. I've had a complaint into the
11 Department of Buildings about an illegal
12 subdivision of the apartment upstairs which no one
13 has ever responded to. It's still open on DOB's
14 website. Nothing ever gets done. There is
15 seemingly no enforcement.

16 Other than the problems that
17 everybody else has already related, I certainly
18 have those. I have leaks from upstairs from the
19 bathroom that's been renovated and some tub was
20 added that leaks. The landlord says they can't
21 fix it, so they shove a towel in there to try and
22 keep the water from coming into my living room.

23 You know, I have dozens of
24 violations written by HPD but still nothing gets
25 done. Calls to DOB and complaints there never get

1
2 responded to. Calls to 311 about the illegal
3 hotel operation, never gets responded to.

4 So I'm sitting here, and others
5 have all these inspections being done and I've
6 never had even one. So I'm trying to figure out
7 what happens from now.

8 Certainly, I support Intro 404 in
9 raising the fines. You obviously need to have
10 teeth in any law that you have or else it's not
11 going to be obeyed. You don't have penalty,
12 there's no compliance. It's a simple fact of
13 life. That's human nature.

14 The landlord in my building has
15 been there since 2005. This started almost
16 immediately, as soon as they took possession of
17 the building. All the apartments that they rent,
18 and there are, I think, four of them now because
19 of the illegal subdivision upstairs, have the same
20 furniture. They even have a Christmas tree in the
21 window of the apartments and the lights are on the
22 ones that face the streets.

23 It's a brownstone in Greenwich
24 Village between Fifth Avenue and University Place,
25 right around the corner from Washington Square, so

1
2 it's very lucrative. They could get \$3,500-\$4,500
3 a month for these apartments, so they must be
4 making a lot more in doing it as an illegal hotel.
5 Obviously, they're making good money and they're
6 not paying any tax on it.

7 I even had one lady come upstairs,
8 who was English, one night and knock on my door to
9 complain about the noise. I told her this is an
10 illegal hotel. There really isn't too much you
11 can do about that. I said you should know that
12 since you're not paying hotel tax. She says,
13 yeah, I am paying hotel tax. So apparently
14 they're collecting hotel tax from the illegal
15 hotel tenants, and of course the city is not
16 getting that.

17 I'm also on DRIE, disabled rent
18 increase exemption. So they're getting a property
19 tax abatement for about \$400 a month of my rent
20 from the City of New York and they're making all
21 this money that they're not paying tax on. I mean
22 talk about adding insult to injury. It's
23 unbelievable how it's compounded.

24 I certainly support the intro. I
25 wish it had more teeth than you're actually

1
2 talking about. I don't understand why it's not an
3 immediately hazardous circumstance to even be
4 running an illegal hotel. Certainly there's no
5 security and it's certainly a problem of safety
6 and security to every tenant who lives in these
7 apartments.

8 Why it's not an immediately hazard,
9 this condition, as soon as there's the original
10 violation, I don't know. Why there has to be
11 repetitive violations before there's a fine, I
12 don't know. How do you get an inspector out there
13 to begin with, I don't know. I leave that up to
14 you guys. Thank you.

15 CHAIRPERSON DILAN: I'll just say,
16 as we sum up, and there may be some questions for
17 this panel. I find it interesting that it sounds
18 like in your case--clearly in her case--but it
19 doesn't sound like the co-op board is collecting
20 the hotel tax in that case, clearly.

21 CHARLES SEELIG: I would imagine in
22 their cases they're getting paid--

23 CHAIRPERSON DILAN: [interposing] I
24 would imagine not. But I find it interesting that
25 the Department of Finance would even collect a

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hotel tax from a non-hotel.

CHARLES SEELIG: That seems to happen.

MONICA OLIVEIRA: They do. They take it.

CHARLES SEELIG: It's crazy.

CHAIRPERSON DILAN: That's definitely--

CHARLES SEELIG: [interposing] You would think that that would be evidence of the--

CHAIRPERSON DILAN: [interposing] Definitely interesting but I can see why that happens.

CHARLES SEELIG: It's why all the departments need to be coordinated better.

CHAIRPERSON DILAN: In your case, it clearly seems like you're in a war with your co-op board. I was going to ask you, have you brought these items up to the co-op board, but I assume that you have and clearly they fell on deaf ears.

MONICA OLIVEIRA: The co-op board president, along with another co-op board member, they're running these illegal hotels. So it's not

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2 in their interest--I have it, you know, in
3 writing. I have an extensive paper trail of
4 asking for meetings and whatnot. Because I've
5 been outspoken, because at one point pretty much,
6 except for one apartment, I was surrounded
7 completely by these illegal hotel rooms. Like I
8 said, it's greatly affected my health. So it's
9 gotten to the point where I haven't been living in
10 my apartment and the first week of March will be
11 two years.

12 CHAIRPERSON DILAN: Definitely
13 egregious. I do believe that the Office of
14 Special Enforcement should have jurisdiction over
15 your case.

16 MONICA OLIVEIRA: I called them.

17 CHAIRPERSON DILAN: That's the
18 reason why they're called the Office of Special
19 Enforcement.

20 MONICA OLIVEIRA: I've called the
21 Attorney General's Office, I've called Christine
22 Quinn's office. I've called everyone and I keep
23 getting the runaround.

24 CHAIRPERSON DILAN: So the Office
25 of Special Enforcement had no follow up to your--

2 MONICA OLIVEIRA: [interposing] No.
3 I was told back in 2009 that there's a backlog.
4 Then I followed up, I called 311 in 2010 when I
5 was no longer living in my apartment but I was
6 staying certain days here and there, or certain
7 nights, I should say. I was told that, again,
8 there's a backlog and it's--

9 CHAIRPERSON DILAN: [interposing]
10 You live in the Speaker's district, is that--

11 MONICA OLIVEIRA: [interposing]
12 Christine, yeah--

13 CHAIRPERSON DILAN: [interposing]
14 So she's your--

15 MONICA OLIVEIRA: [interposing] And
16 I've gotten nowhere. I've spoken with Jose Conde
17 who works with her.

18 CHAIRPERSON DILAN: Yours sounds
19 like a casework matter. We'll make sure that the
20 Speaker again receives this information.

21 MONICA OLIVEIRA: I've gone to the
22 police.

23 CHAIRPERSON DILAN: Well it also
24 sounds just in general, from an oversight matter,
25 we need to ask the Office of Special Enforcement

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2 how they handle situation in co-ops.

3 Do any of my colleagues have any
4 questions? Council Member Fidler and then Council
5 Member Brewer.

6 COUNCIL MEMBER FIDLER: Thank you,
7 Mr. Chairman. Actually, each of you raised an
8 issue that I really have a comment on. As the
9 author of the hotel tax that the Mayor has just
10 signed into law, it's maybe the only tax I
11 actually like, one of the reasons that we've had a
12 problem with this committee on this issue is that
13 when we last had a hearing on this subject, it
14 became clear that the very same people that the
15 Mayor's Office of Special Enforce was clamping
16 down on were voluntarily and willfully and happily
17 paying the hotel tax.

18 So, you know, that's part of the
19 problem I have with turning around and whacking
20 them with a \$25,000 fine, is that one hand is
21 basically telling you it's okay what you're doing
22 because we're taking the tax that you're
23 collecting. The other hand is saying no, it's
24 not. There's a policy problem with that and a
25 fairness and due process problem with that. Mel,

I didn't catch your last name.

MEL WYMORE: Wymore.

COUNCIL MEMBER FIDLER: There is no issue that I have cared more about as a Council Member than homeless youth. I've held over 20 hearings on the subject. It strikes me that certainly before kids wind up sleeping on a subway grating, have an SRO, a legal, clean, hopefully, SRO bed that they might be able to rent is far, far preferable.

So what struck me from your testimony is that, as we so frequently do in government, we're putting the cart before the horse. There ought to be a discussion about how we address this issue in its entirety that includes the stimulation and legalization of the building of safe inhabitable SROs so that those people who fit somewhere in between "I can afford an apartment sometimes" and "not at all" have a place to go.

Maybe we ought to be having that discussion before we beat the daylights out of people who might be providing these, maybe in the wrong way and the wrong place, but providing some

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2 space for kids that might otherwise be sleeping on
3 subway gratings.

4 Ms. Oliveira, you ought to follow
5 the calendar of the Housing and Buildings
6 Committee calendar pretty carefully. I hope in
7 the next month or so, maybe a couple of months,
8 we'll be holding a hearing on a bill I've
9 introduced. It's called the Co-op
10 Antidiscrimination Bill which would go directly to
11 the issue of your co-op board improperly denying
12 you the right to sell your unit, for reasons that
13 are unlawful and discriminatory. You may want to
14 come back here and testify to that.

15 The only other comment I'd have for
16 you is it may be your lifelong dream to live in
17 Manhattan, but this is 2011 and Brooklyn is the
18 new Manhattan.

19 MONICA OLIVEIRA: I hear you.

20 CHAIRPERSON DILAN: I would say
21 that issue, as we understand, has been put off and
22 hopefully we get to deal with that issue sometime
23 in the near future. With that, that will conclude
24 the public portion.

25 I'm sorry. She would have gotten

1
2 to me. She wouldn't have let me close without her
3 having her say. Council Member Brewer?

4 COUNCIL MEMBER BREWER: Thank you.
5 I want to thank the Chair very much. I want to
6 add that the real goal in all of this is
7 affordable housing. Any of these buildings right
8 now could, in fact, rent to regular individuals
9 for \$400 or \$500, \$600 or more per month. It's
10 just that there is more money in the hotel issue.

11 I think that we need to stop the
12 hotel issue. I do think that this bill is one way
13 to do that. I am very eager to sit down with Mel
14 Wymore. I've called HPD for the same discussion,
15 to figure out if there's some way to make it of
16 interest to the owners as well as the residents
17 for affordable housing down the line.

18 It's complicated. What would be
19 the rent? What is the stabilized rent? There are
20 many issues, not to belabor the issue of what the
21 issues are right now. The fact of the matter is
22 all of these units could be affordable housing, so
23 there's no reason not to, it's just there's more
24 money in the hotel industry.

25 I just want to say in terms of the

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2 hotel tax, I agree with Council Member Fidler. We
3 sat here maybe two or three years ago when the
4 Finance Department, I guess previous commissioner,
5 actually gave us a list of the hotels that were
6 paying the hotel tax. I think some of the owners
7 felt they were legal. I don't think the
8 Department of Finance actually knew or wouldn't
9 say. So the bill in Albany hadn't passed yet. So
10 we're in the la-la land or questioning land is
11 something that is still there.

12 So now we have a bill in Albany.
13 They're still paying the hotel tax as far as I
14 know. I think Council Member Fidler has a point
15 that there are two sides that don't talk to each
16 other. On the other hand, I think the only way to
17 get rid of these hotels and thinking about safety
18 and things that involve individual tenants in
19 these buildings is to have a higher fine. Thank
20 you.

21 [Applause]

22 CHAIRPERSON DILAN: So with that,
23 that will conclude the public portion of the
24 hearing. We do have some--

25 MALE VOICE: [off mic]

2 CHAIRPERSON DILAN: If you want to
3 submit for the record, you certainly could. Give
4 it to the sergeant and he'll give it to us. We do
5 have some comments. If I could--

6 FEMALE VOICE: [off mic]

7 CHAIRPERSON DILAN: The hearing is
8 not over. Ma'am? The hearing is not quite over
9 yet. It's almost over. I do have some
10 housekeeping items I do have to do before I
11 adjourn the committee.

12 We have some testimony for the
13 record that I do have to acknowledge before we can
14 close. I believe we are about to receive some.
15 Is that correct? Some testimony for the record?
16 Yes, we are.

17 I'll get started. We have
18 testimony from--well, Charles Seelig read his
19 testimony. We have testimony from the Hotel
20 Association of New York in support, if people want
21 to know. Testimony from Ms. Stacey Rauch
22 [phonetic], which will be read for the record, as
23 well as testimony from a Gerry McCarthy which will
24 be entered into the record. Testimony from
25 Matthew Abuelo, which will be read into the

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2 record. Testimony from Senator Adriano Espaillat,
3 which will be read into the record. Testimony
4 from the New York Hotel and Motel Trades Council,
5 also in support, it will be read into the record.
6 Question from Airbnb, or testimony from Airbnb
7 that will be read into the record. I think this
8 is a duplicate. As well as, testimony from
9 Yolanda Dunderdale that will be read into the
10 record. Do I have all items to be read into the
11 record? Sir, did I mention your testimony that
12 was supposed to be entered into the record?

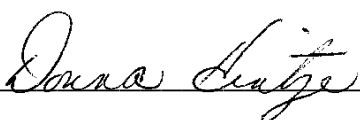
13 MALE VOICE: [off mic] Yes.

14 CHAIRPERSON DILAN: Okay. I think
15 it did this at that time. But just in case, on
16 the Preconsidered Intro testimony in support from
17 the Associated Building Owners of Greater New York
18 on the carbon monoxide detectors.

19 At this time, all legislative items
20 will be laid aside and that will conclude this
21 hearing.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature 

Date January 13, 2012