

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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September 17, 2008

Start: 10:20am

Recess: 11:20am

HELD AT: Council Chambers
City Hall

B E F O R E: ERIK MARTIN DILAN
Chairperson

COUNCIL MEMBERS:
Tony Avella
Leroy G. Comrie, Jr.
Lewis A. Fidler
Robert Jackson
Rosie Mendez
Joel Rivera
Vacca
Thomas White, Jr.

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

Joseph Rosenberg
Deputy Commissioner of Intergovernmental Relations
Department of Housing Preservation and Development

Vito Masticcullo
Department of Housing Preservation and Development

Michael Kaplan
Representative, Assembly Member Richard N. Gottfried
New York State Assembly

Frank Ricci
Director of Government Affairs
Rent Stabilization Association

Morris Benjamin
President
Mutual Redevelopment Houses, Inc. commonly known as
Penn South Houses

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2 MALE VOICE: On this day, September
3 17, 2008. Committee on Housing and Buildings
4 recorded by Nick - -.

5 CHAIRPERSON ERIK MARTIN DILAN: I'd
6 like to call this Committee hearing to order. My
7 name is Erik Martin Dilan and I'm the chairperson
8 of the Housing and Buildings Committee. Today the
9 Committee will consider two bills, Intro 823-A, a
10 local law to amend the administrative code of the
11 City of New York in relation to tax abatement and
12 exemption for multiple dwellings. As well as
13 Intro 824-A, a local law to amend the
14 administrative code of the City of New York in
15 relation to filing the registration statements by
16 owners of dwellings.

17 Intro 823-A would permit Penn South
18 Houses, located within the Speaker's district to
19 obtain J-51 tax benefits if it continues to remain
20 a limited equity cooperative.

21 Intro 824 would require owners of
22 one and two family dwellings, which are not
23 occupied by the owner or family member, to
24 register with the Department of Housing
25 Preservation and Development. Under this

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2 legislation owners who fail to register would face
3 a civil penalty of \$2,000.

4 Today's hearing, the Committee
5 anticipates hearing from the Department of Housing
6 Preservation and Development as well as residents
7 from the Penn South Houses and housing advocates
8 and representatives from the real estate industry.
9 I believe it was stated earlier but if you'd like
10 to testify on any of the two items on today's
11 agenda please see the Sergeant at arms.

12 As of now I'm joined by Council
13 Member James Vacca, who is a member of the
14 Committee and these two hearings are the initial
15 hearing. There's no vote today. We will hear the
16 bills and the bills will be later decided and we
17 will look to dispose of them shortly thereafter.

18 With further a due, if the members
19 of the Housing Preservation and Development team,
20 if they are here please come up and testify. You
21 can introduce yourselves and any members of the
22 staff you'd like to introduce. We look forward to
23 receiving your testimony.

24 JOSEPH ROSENBERG: Good morning
25 Chairman Dilan, Councilman Vacca. I'm Joseph

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2 Rosenberg, Deputy Commissioner of
3 Intergovernmental Relations out of the Department
4 of Housing Preservation and Development. Sitting
5 to my left is Mr. Chulo, who you all know,
6 Associate Commissioner of Code Enforcement at our
7 agency.

8 There are two bills on the agenda
9 today I would like to discuss. Both of these are
10 program bills and initiatives which we therefore
11 very strongly support. The first one deals with
12 Penn South. It's Intro 823 that amends the
13 administrative code exempting multiple dwellings
14 owned and operated by an Article 5 redevelopment
15 company from the J-51 co-op and condo eligibility
16 limitation.

17 This current limitation provides
18 that any multiple dwelling formed as an Article 5
19 cooperative through the New York State Private
20 Housing Finance law can not receive a J-51 tax
21 incentive unless the assessed value of each unit
22 in the multiple dwelling does not exceed an
23 average of \$40,000. The only Article 5 building
24 in the entire that meets this criteria is Penn
25 South, a large complex containing over 2,800

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2 apartments located between West 23rd and West 28th
3 Streets in Chelsea.

4 This bill also requires owners to
5 remain organized as an Article 5 mutual
6 redevelopment company for at least an additional
7 15 years, which therefore preserves the units as
8 affordable housing for this entire term.

9 This bill rectifies an archaic
10 state legislative reference that failed to
11 recognize the important of keeping Article 5
12 companies affordable. In 1987 the state
13 legislature established a ban on permitting
14 cooperatives from receiving J-51 benefits if their
15 assessed value exceeded \$30,000 per unit. In
16 1992, at the request of the City of New York this
17 cap was increased to \$40,000 per unit.

18 The purpose of this language was to
19 prevent luxury cooperatives from using this
20 incentive program. But due to the rise of
21 assessed values in New York City in recent years
22 we find that the units at Penn South are now
23 assessed at over \$40,000 per unit. We believe
24 that this current law therefore harms this
25 development by not allowing them to utilize the J-

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2 51 program when making much needed repairs,
3 upgrading the building's aging systems.

4 The state legislature passed and
5 the Governor recently signed Chapter 383 of the
6 laws of 2008 to remedy this situation. And Intro
7 823 implements this new state provision. This
8 legislation is very similar to Intro 204, which
9 corrected the same issue regarding Mitchell-Lama
10 Co-ops in which you passed and the Mayor signed at
11 local law number 15 on April 17, 2007.

12 The J-51 program has been
13 responsible for the rehabilitation and upgrading
14 of the New York City's housing stocks since 1955.
15 It applies to a variety of building improvements
16 including but not limited to the installment or
17 replacement of heating systems, plumbing, wiring
18 elevators, windows and a range of other major
19 capital improvements.

20 We believe that this program is an
21 important tool for encouraging owners to maintain
22 and rehabilitate their property and at the same
23 time, enabling owners to maintain rents to low and
24 moderate income households.

25 As I stated previously Penn South

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2 is a 2,802 unit development. It has become a
3 naturally occurring retirement community and is
4 the only remaining Article 5 limited equity co-op
5 in the entire city. The residents of this
6 development are concerned with the continuing
7 maintenance and affordability of their buildings,
8 not the resale of their units.

9 It was first occupied in 1962.
10 Passing this bill would enable the shareholders to
11 make the necessary repairs with the assistance of
12 our J-51 tax benefit program, thus preserving this
13 unique and affordable housing resource.

14 The second bill, Intro 824, also
15 amends the administrative code and proposed three
16 changes. The first change addresses an issue
17 where building owners who have sold their property
18 continue to receive a notice of violation on the
19 property because the new owner has not yet
20 registered the building in their own name.

21 Currently HPD must send notice of
22 violations, known as NOVs, to the last validly
23 registered owner. This bill will allow previous
24 owners to contact HPD to invalidate a building
25 registration for the limited purpose of sending an

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2 NOV. The previous owner must show sufficient
3 proof such as an affidavit, a deed or a transfer
4 of title that they have legally transferred the
5 property. HPD would then send all future NOVs to
6 the managing agent or owner at the building
7 address. Many of you have received complaints
8 from constituents over the years that have sold
9 their properties yet continue to receive
10 violations. Intro 824 would rectify this ongoing
11 problem.

12 The second provision provides a
13 civil penalty of \$2,000 if a new property owner
14 does not register their building within 30 days.
15 Currently there is a \$500 penalty for not
16 registering one's building.

17 The last amendment requires all
18 non-owner occupied one and two family dwellings to
19 be registered. Presently all non-owner occupied
20 dwellings must be registered only if the owner
21 lives outside of the City of New York. This
22 provision in the bill requires owners that live
23 within the city limits but rent their property, to
24 register their buildings. It's important from a
25 maintenance and safety standpoint that HPD has an

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2 owner to contact so violations may be corrected
3 quickly and an owner can be reached in case of an
4 emergency.

5 Thank you again for placing both of
6 these bills on the Housing Committee agenda and we
7 urge your support on both of them. Thank you.

8 CHAIRPERSON DILAN: Okay. I just
9 have a few brief questions. In Intro 823, which
10 is the J-51 bill. I guess there's three criteria
11 that Penn South would have to meet to, I guess,
12 take advantage of this benefit? According to the
13 bill that I've read could you just go through that
14 for me.

15 MR. ROSENBERG: Actually what it
16 is, is that it's really the \$40,000 assessed
17 valuation issue. As I testified, back in the 80s
18 and early 90s we did not want to be in the
19 position of providing luxury buildings with a J-51
20 benefit. Frankly, as you know tied to the J-51
21 benefit is affordability so a lot of the luxury--

22 CHAIRPERSON DILAN: [interposing]
23 But what I'm getting at is they have to continue
24 to stay organized as a mutual redevelopment
25 company, is that correct?

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MR. ROSENBERG: That's correct.

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That's the 15 year requirement of affordability.

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CHAIRPERSON DILAN: Okay. I guess

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that agreement is irrevocable, right? If they try

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to get out or create a new company then they lose

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the benefits.

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MR. ROSENBERG: That's correct,

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yes.

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CHAIRPERSON DILAN: I want to jump

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over to Intro 824 for a second. I think

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principally I like this bill but there's some

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components in it that I disagree with. I think

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everybody knows here how I feel about one and two

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family dwellings and raising penalties on them.

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So I think that the \$2,000 penalty is too severe.

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I think the \$500 penalty that's in place right now

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is fine. It just maybe needs to be enforced a

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little bit better, I guess.

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Do you have any ideas in terms of

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how much HPD currently collects from owners who

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failed to register and pay the \$500? What's the

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revenue stream?

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MR. ROSENBERG: Yeah. We don't

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actually know that. We can get that information

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2 to you but certainly from the agency's
3 perspective, although this is an important
4 provision, the other two provisions are far more
5 significant. So we can certainly look forward to
6 working with you on that.

7 CHAIRPERSON DILAN: Sure. I
8 understand that but I don't think--a lot of small
9 homeowners are going through a lot of pain right
10 now. I don't think I'm in the position where I
11 want to increase penalties and fines on homeowners
12 just to make things a little bit more easier for
13 the city.

14 I do thin this is a good bill. I
15 think it's a great bill. I think it's going to
16 cost owners of one and two family homes, maybe a
17 little bit too much. I do think that it will be
18 enforced a little more because the penalties are
19 higher and it will be come an increased revenue
20 stream. I understand the city needs the money but
21 I think the people out there in the communities
22 need the money as well.

23 How many one and two family
24 dwellings to you think will get captured by this
25 legislation?

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2 MR. ROSENBERG: But the legislation
3 that requires the registration for owners who live
4 in the city?

5 CHAIRPERSON DILAN: Yes.

6 MR. ROSENBERG: I don't have
7 numbers in that. I can get that for you. I think
8 one of the things here is that we were thinking
9 amongst ourselves while we were drafting this
10 letter. What were the origins in not requiring
11 owners who lived in the city, not having to
12 register those outside to register?

13 We realized it was time to make it
14 equal. But certainly we can get you some numbers
15 on those who reside outside and on those who
16 reside in one and twos.

17 CHAIRPERSON DILAN: What's steps
18 does HPD take right now to let homeowners know
19 that their registration is incomplete or needs to
20 be completed? Is there anything that the agency
21 does?

22 VITO MASTICCULLO: Hi, good
23 morning. My name is Vito Masticcullo. Currently
24 we have two cyclical mailings that are sent out.
25 One mailing addresses the buildings that are 60

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2 units or greater. The second mailing addresses
3 the three to five family homes, multiple dwellings
4 and private dwellings.

5 So within these two mailings there
6 are approximately 68,000 pieces within each
7 mailing that are sent out. These are the annual
8 registration notices. If an owner does not
9 complete the registration properly, we send a
10 notice of invalidated registration.

11 We also have recently put the
12 registration forms on our web site. The way that
13 it is designed is before you print it for
14 signature, the required criteria have to be
15 completed. Otherwise it will not allow you to
16 print it. So we've actually made it a lot easier
17 for owners to register.

18 CHAIRPERSON DILAN: At what point
19 is an owner required to register, at the
20 completion of the sale of the home? At what
21 point, basically, are you looking for these owners
22 to register?

23 MR. MASTICCULLO: Again, it's on an
24 annual basis or within a certain period of time
25 after title has transferred.

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2 CHAIRPERSON DILAN: All right. So
3 annually they have to register even if it's not a
4 sale of a new building they have to register
5 anyway?

6 MR. MASTICCULLO: Yes. But that
7 registration, the form will provide you with the
8 information that was provided on the last
9 registration. If there are no changes you just
10 indicate no change, sign the form and send it back
11 to us. So you don't have to really complete the
12 entire form. When we send the registrations out
13 they're pre-populated with the information from
14 the last registration.

15 CHAIRPERSON DILAN: Okay. I see
16 we've been joined by Lewis Fidler who is a member
17 of the Committee. Do any of my colleagues have
18 any questions?

19 COUNCIL MEMBER VACCA: Yes.

20 CHAIRPERSON DILAN: Council Member
21 Vacca.

22 MR. VACCA: Yes. I really don't
23 have a question. I do think that the legislation
24 concerning re is a good idea. I would echo the
25 remarks of the Chair regarding the \$2,000 fine. I

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2 think we should do something a little more
3 reasonable. But I think it's important to know
4 where you have such housing, who to contact, how
5 to contact. And I think registration is a good
6 step so I would be support of that and, of course,
7 the other piece of legislation as well.

8 What is the revenue, though,
9 involved in the other piece of legislation that
10 we're talking about? Tax exemption, abatement for
11 that development, what is the money involved and
12 the loss of revenue to the city? Is there a
13 significant financial implication??

14 MR. ROSENBERG: No. Actually it's
15 around \$420,000 annually. Clearly when we're
16 dealing with making major capital repairs to 2,800
17 units and preserving the affordable housing for 15
18 years, this is clearly a good cost benefit
19 analysis.

20 MR. VACCA: Okay. Thank you.

21 CHAIRPERSON DILAN: All right. I'm
22 just going to follow up. With the current penalty
23 structure at \$2,000 on Intro 824, what do you
24 think the revenue impact will be in terms of new
25 revenues to the city? And is there an ability to

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2 cure the violation if an owner were to receive it,
3 how would they do that?

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MR. ROSENBERG: Actually if I could
5 address that. First of all, this is not an
6 automatic penalty. This is a civil penalty that
7 we would seek in Housing Court for an owner who
8 failed to register. We don't typically bring an
9 action against homeowners specifically for that
10 condition. It's generally incorporated into a
11 comprehensive litigation case. So these are not
12 automatic fines. They would have to be imposed in
13 Housing Court. We would be seeking that civil
14 penalty in Housing Court for failure to register.
15 Again, the civil penalty would only be sought if
16 an owner does not register on an annual basis.

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CHAIRPERSON DILAN: That's current
18 practice now, is that correct?

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MR. ROSENBERG: Currently there are
20 civil penalties that can be imposed for this
21 violation.

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CHAIRPERSON DILAN: Yeah. But your
23 current practice is what you just said, you go to
24 Housing Court and you seek it that way?

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MR. ROSENBERG: Correct.

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2 CHAIRPERSON DILAN: Okay. And how
3 would this effect the service of other notices and
4 bills required by state law?

5 MR. ROSENBERG: It wouldn't. This
6 is purely dealing specifically with the NOV's on
7 the local level so it does not have a broader
8 effect on that.

9 CHAIRPERSON DILAN: No broader
10 effect, okay. We've been joined by Council
11 Members Avella and Mendez. I'm not sure if they
12 have any questions on these two items. No and I
13 guess not.

14 I'm going to jut end here by saying
15 conceptually there's a lot of things I like but I
16 would want more detail. I would want more numbers
17 before we pass this. We don't have answers in
18 terms of revenue impact. I think I would want
19 that. I would want to know what the current
20 picture looks like in terms of how many violations
21 are collected and issued and to what amount before
22 we proceed with passage of this bill.

23 So I look forward to that. Again,
24 to my colleagues, this is the last. I'm about to
25 release the panels so if anyone has questions on

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2 these two items. If not, I'd like to thank Mr.
3 Rosenberg and Mr. Masticcullo for coming and
4 talking about these two items. And I look forward
5 to working with you on 824.

6 MR. ROSENBERG: Thank you. We'll
7 get you that information on 824.

8 CHAIRPERSON DILAN: Thank you.

9 MR. ROSENBERG: Thank you.

10 CHAIRPERSON DILAN: I want to call
11 Mr. Michael Kaplan from Assembly Member Richard
12 Gottfried office.

13 MICHAEL KAPLAN: Good morning. My
14 name is Michael Kaplan. I'm here to speak on
15 behalf of Assembly Member Richard Gottfried.

16 My name is Richard M. Gottfried. I
17 represent the 75th Assembly district in Manhattan,
18 which includes the Penn South Houses. I regret
19 that I am unable to attend this hearing in person.
20 I thank Committee Chair Erik Martin Dilan for
21 holding the hearing today.

22 As a sponsor of the state
23 legislation to amend real property tax law section
24 489 to enable the limited equity Penn South Houses
25 development to continue to be eligible for the

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2 program commonly known in New York City as J-51
3 program.

4 I strongly support Intro No. 823,
5 which would implement the change in this state
6 authorizing legislation.

7 Under the J-51 program if the owner
8 of an apartment building makes capital
9 improvements that would ordinarily increased the
10 assessed property value of the building, the
11 building does not have to pay the property tax on
12 that increased value. For Penn South Houses, J-51
13 is important for enabling the development to make
14 needed improvements without having the raise the
15 rent to pay for higher taxes.

16 State and the city law try to
17 target J-51 benefits to affordable housing so they
18 do not subsidize high priced housing. J-51
19 benefits are only available if the assessed value
20 of each apartment is less than \$40,000. Earlier
21 this year Penn South's assessed value went above
22 that limit mainly because of rise in property
23 values in the Chelsea neighborhood in which Penn
24 South is located.

25 Because of Penn South's strong

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2 "limited equity policy" - repeatedly renewed by
3 the residents - is truly affordable housing
4 despite its higher assessed value. To maintain
5 the developments affordability and eligibility for
6 J-51 benefits, I urge the City Council to pass
7 this legislation, which would exempt the
8 redevelopment company co-op from the limit as long
9 as it preserves its limited equity rules.

10 Penn South is the only development
11 in the city that would be affected by this bill.
12 As the Assembly Member representing Chelsea I know
13 that Penn South is an extraordinary gem in the New
14 York housing world that must be protected. Mayor
15 Bloomberg and Council Speaker Quinn recognized
16 this and strongly support the bill as well.

17 I thank you for the invitation to
18 testify today.

19 CHAIRPERSON DILAN: Thank you. I
20 just want to give the members of the Committee a
21 chance to ask any questions if they so desire. If
22 not, thank you for your time this morning and
23 thank you for submitting testimony on behalf of
24 Assembly Member Gottfried.

25 Next I want to call up Mr. Frank

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2 Ricci from the Rent Stabilization Association.

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FRANK RICCI: Thank you Chairman Dilan, members of the Committee. My name is Frank Ricci. I'm the Director of Government Affairs to the Rent Stabilization Association. I'm only here today to talk about Into 824. I have written testimony, which I've handed it in to you. I'm not going to bore you with reading it, I'll just get right to the point of it.

We also have similar feelings, as you do Mr. Chairman, we think this idea of 824 is a good idea. We get many complaints from time to time from our members who have transferred title to a building, they continue to receive the violations. They continue to HPD and say I don't own the building and it's just a headache for them. And a potential liability because sometimes they may own other buildings and because the way the City system works, it's just a blight on their record even though they no longer own that piece of property.

We think that the fine, the \$2,00 fine is excessive. We have a possible solution to this whole problem. It seems to me and I'm told

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2 by people at HPD, many of members tell me they
3 can't transfer title to a building unless they
4 actually hand in the registration card to have the
5 title or the deed recorded at the Department of
6 Finance. So that's common practice for many
7 owners or professionals.

8 But I'm told by HPD that the
9 Department of Finance's performance in this area
10 is inconsistent at best, that they don't always
11 require it. So it just seems to me the easiest
12 thing to do, and I'm surprised that someone from
13 the Department of Finance isn't here today. Maybe
14 they should be at the next hearing on this bill.
15 Why don't they require it every time they transfer
16 title, record a title or record a deed? That's
17 the easiest way to do it. You just can't record
18 your deed unless you hand in your registration
19 card at the same time, which then gets sent to the
20 HPD.

21 CHAIRPERSON DILAN: They should do
22 it every time they collect the mortgage recording
23 tax.

24 MR. RICCI: Right. And obviously
25 in this day and age of computers, when I need to

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2 look up who owns a building I got to the
3 Department of Finance web site and I see who
4 they're sending the tax bill to. So that's
5 ultimately the final resting spot as to who's
6 controlling the building.

7 It just seems that either you get
8 the registration at the recording the title or the
9 deed or HPD just goes to the DOF web site and sees
10 who's paying the taxes and that's who they the
11 violation to. It just seems that simple without
12 going through a lot of this other stuff.

13 But as I said, in concept we
14 support it. I've told HPD we're more than happy
15 to sit down and talk to them about it. If
16 Council, members of the Council staff or Council
17 Members would like to talk to us, we have some
18 ideas but it's something that needs to be done.
19 There is an issue there.

20 CHAIRPERSON DILAN: I would have
21 thought--that was going to be my question to Mr.
22 Masticcullo is why doesn't the City have the
23 owners register at the time they transfer and
24 collect the mortgage recording tax.

25 MR. RICCI: Apparently from what

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I'm told the attorney should do this, who do a lot of closings on a regular basis on multiple dwellings do do that. They're professional enough; they know that they have to get that multiple dwelling registration statement there. But then you get attorneys who maybe don't do it all the time and maybe that's where the problem is. But DOF should not accept the transfer, in my opinion.

CHAIRPERSON DILAN: Yeah. I would think that that's one way to do it. Then what threw me off a little bit was I wasn't aware that owners had to renew this every year. I thought it was only at the time of sale.

MR. RICCI: Well this bill doesn't deal with the renewal; this is only with the transfer of title or deed.

CHAIRPERSON DILAN: It doesn't--

MR. RICCI: [interposing] But once you register once. Yeah. If it's three units or more or a non-owner occupied one or two, HPD sends you a renewal statement each year, which you have to do. Often times what owners do for the same reasons is they may transfer managing agents in

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2 the middle of the year. So the old managing agent
3 certainly doesn't want to keep getting all the
4 violations or any correspondence from HPD so they
5 automatically do that.

6 Now, I heard Deputy Commissioner
7 Rosenberg say, they made it easier. You can just
8 go online and change it. That makes sense.

9 CHAIRPERSON DILAN: Okay. Do any
10 of my colleagues have any questions? I see we've
11 been joined by Council Member Rivera and Council
12 Member Jackson. I have Council Member Avella
13 followed by Council Member Lou.

14 COUNCIL MEMBER JOEL RIVERA: Thank
15 you for your testimony, Frank. I think it's very
16 appropriate and I certainly support his request
17 that DOF be here for the next meeting. I don't
18 have a number of a lot of multiple dwellings in my
19 district. I basically have one, two and three
20 family homes.

21 But the one thing I would add to
22 your testimony is I have found that there has been
23 a significant delay by DOF in registering new deed
24 information and the new owners of properties.
25 I've even had in my district where people get

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2 violations or notices and they no longer own the
3 building; maybe for a year they've no longer owned
4 the building. So I think you brought up an
5 interesting issue and I would hope that when we
6 are able to get DOF at the next hearing on this.

7 MR. RICCI: That's actually a
8 complaint we also hear is that when they do
9 actually file the new multiple dwelling
10 registration and they do it at closing that it
11 takes a long period of time for it to show up on
12 the HPD web site. Quite frankly, this day and
13 age, when it used to be all paper I could
14 understand it. But nowadays there's no excuse.

15 CHAIRPERSON DILAN: Council Member
16 Fidler.

17 COUNCIL MEMBER LEWIS A. FIDLER:
18 Thank you. Frank, do you know if it is a
19 requirement of the law that a multiple dwelling
20 statement be given with the deed or is it an
21 administrative reg?

22 MR. RICCI: I'm not sure. I was
23 told by HPD when I spoke to them yesterday about
24 this that they said well it's already a
25 requirement. I didn't have a chance to see if

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2 it's in the Housing Maintenance Code or in the
3 Finance Code or whatever. We're going to look
4 into that to see what type of requirement is this.

5 MR. FIDLER: And when you find the
6 answer, if you pass it on. It would seem to me if
7 it's not a requirement of the law that we want to
8 make it one so that Finance has to.

9 I guess the next question I have is
10 in the case where an owner under this bill would
11 notify HPD that they're no longer the correct
12 property owner? Is there any reason why we can't
13 make the person or persons who are receiving the
14 tax bill the presumptive owner of the property?

15 MR. RICCI: I've seen a reason why.
16 The only reason would be that sometimes the tax
17 bill does go to a bank instead of the owner.

18 MR. FIDLER: I would think that
19 that might be a greater incentive to a property
20 owner than even the fine, to know that the bank is
21 receiving notices of violations on the property
22 that they've given a mortgage to. Which is
23 probably a violation of the mortgage.

24 MR. RICCI: On top of the fact that
25 the bank is usually present at the closing also,

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you would think they would make it their business to make sure the seller does the multiple dwelling registration.

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MR. FIDLER: To tell you the truth, I think if we made it a requirement of law I think title companies would make sure. And there's a title company at every close.

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MR. RICCI: I agree.

MR. FIDLER: No matter how

experienced the attorney is, the title company is the one that will straighten them out and say you have to have multiple dwelling cards. I think that makes more sense even than what we're doing in 824. Thank you.

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CHAIRPERSON DILAN: Thank you

Council Member Fidler. I just have to note for the record, the Committee including myself did not reach out to the Department of Finance and ask them to be here today. So I want to clarify that, that's our oversight and not any fault of the Department of Finance. But we will reach out to them and get their input on this item.

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25

We've been joined by Council Member Leroy Comrie. If there are no more questions, I'd

1
2 like to thank Mr. Ricci for his time and we look
3 forward to working with you on this item as well.

4 Lastly, I have Mr. Morris Benjamin
5 of Penn South Houses. Mr. Benjamin if you could
6 introduce your colleague and then he could fill
7 out the paperwork later. You have to push the
8 button on the mic. When the light's off, it's on
9 and then you could start all over again because we
10 need to get you identified for the record.

11 MORRIS BENJAMIN: Okay. Good
12 morning. My name is Morris Benjamin and with me
13 is Walter Mancroft, who is treasurer on our board
14 of directors. I am president of Mutual
15 Redevelopment Houses, commonly known as Penn
16 South. And I'm here today with my colleagues to
17 urge you to approve Intro 823. It will correct an
18 inequity that currently prevents our housing
19 development from receipt of J-51 tax benefits.

20 I want to express our thanks to the
21 Mayor and the staff at HPD for securing the needed
22 state legislation and to Speaker Quinn, Chairman
23 Dilan and other council members for sponsoring the
24 measure here at the City Council.

25 Penn South is a 2,820 apartment

1
2 limited equity co-op in the Chelsea section of
3 Manhattan. It was organized in 1962 under the New
4 York City Redevelopment Companies Law. At all
5 times since its founding, it has been under
6 contract to the city to provide affordable housing
7 to low and moderate income families.

8 Penn South is home to a large
9 number of senior citizens and others on fixed
10 income. In exchange for real estate tax benefits,
11 our residents are subject to income limits and
12 occupancy standards as well as supervision by HPD.

13 Resale prices are controlled by
14 state law and are limited to the amount of equity
15 invested, assessment and a proportionate share of
16 mortgage amortization. The current maximum resale
17 price is \$11,600 per room, a tiny fraction of the
18 price that would be obtained on the current
19 market. The current non-revocable agreement with
20 the City remains in effect for 14 more years,
21 until 2022.

22 J-51 tax benefits have helped make
23 several major infrastructure projects more
24 affordable to our residents. Among them were
25 window replacement, facade work, power plant

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2 expansion and modernization of our elevators. You
3 can imagine our dismay to suddenly learn that
4 because of our location, one of the hottest real
5 estate areas in the City, our assessed value has
6 so sharply increased that we exceeded the \$40,000
7 per unit limit for J-51 benefits designed to
8 exclude luxury co-ops.

9 Future J-51 benefits are important
10 to us to help offset the high cost of future
11 infrastructure improvements. Our buildings are
12 approaching the 50-year mark, are in constant need
13 of work to maintain them in sound, physical
14 condition. We are very proud of our record in
15 providing New Yorkers with quality, affordable
16 living quarters and hope to continue to do so for
17 many years to come.

18 As I am sure you know, changes in
19 J-51 legislation requires parallel changes in both
20 state and city law. The \$40,000 limit is imposed
21 by section 421 of the state's real property tax
22 law and then duplicated in the city's J-51 law,
23 Section 11-243 of the administrative code. An
24 exception restoring J-51 benefits under specified
25 conditions have previously been provided for

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2 Mitchell-Lama Housing but not for development
3 companies.

4 The necessary state enabling
5 legislation covering Penn South, the only
6 remaining redevelopment company, was signed into
7 law this year by Governor Paterson. All that
8 remains to restore our benefits rights is passage
9 of Intro 823.

10 On behalf of the residents of Penn
11 South, I thank the Committee for listening to us.
12 And I trust that you will correct the existing
13 inequity. We are glad to answer any questions you
14 may have. Thank you.

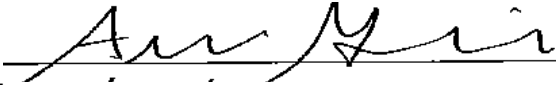
15 CHAIRPERSON DILAN: Okay. And with
16 that do any of the members of the panel have any
17 questions for Mr. Benjamin? If not, I'd like to
18 thank both of you gentlemen for coming in and
19 providing testimony.

20 MR. BENJAMIN: Thank you.

21 CHAIRPERSON DILAN: And that, at
22 this point, will conclude this hearing. Both
23 items on the agenda, Intros 823 and Intros 824
24 will be laid aside and this Committee is
25 adjourned.

C E R T I F I C A T E

I, Amber Gibson, 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 _____ September 25, 2008 _____