THE CITY OF NEW YORK
OFFICE OF THE MAYOR

Testimony by
Henry Berger, Special Counsel
NYC Council Committee on Housing and Buildings
March 23, 2017

Thank you, Chair Williams and members of the Housing and Buildings Committee for the opportunity to appear before you today. I am Henry Berger, Special Counsel to the Mayor, and I am here to comment on Intro. 750-A.

The legislation would require landlords of multiple dwellings to provide English language voter registration forms to prospective tenants signing a vacancy lease and to provide the registration form in four other languages at the request of the tenant. In addition, the legislation would permit the owner to assist the tenant in completing the form and to transmit the form to the Board of Elections.

The City Council and the Administration have already adopted a number of proposals to ease the burdens imposed by State law on voter registration:

- The Council has enacted agency based voter registration, with provisions for agency assistance, and the Administration has emphasized the importance of this program by the Mayor's very first directive requiring the participation of 24 agencies.
- The Administration has interpreted and made available voter registration forms in 11 languages, in addition to the five required by the Voting Rights Act.
- The Administration has required every agency to provide a direct link on their web sites to voter registration forms.
- The Administration is working with City agencies to provide electronic voter registration in conjunction with the services they provide so that a member of the public accessing a City service may commence the registration process upon the completion of their City business by transporting their personal information provided to the City to a voter registration form, completing the form electronically and transmitting that information electronically to the Board of Elections. Under current law, the process is completed by submission of the form by mail or in person.
- The administration is working with the Board of Elections to make this electronic registration process available as a public-facing application on the Board of Elections web site.

- Members of the Council have worked with the high schools in their districts to establish a student voter registration day and register thousands of our high school students.

Each of these programs calls on governmental entities to assist in the voter registration process. This legislation, on the other hand, would impose a burden on a private party: private property owners. We believe it is inappropriate to do so.

Most importantly, we worry that permitting landlords to intercede in their tenants' voter registration process, even if it is at the tenant's request, creates opportunities for improper political pressure – even voter intimidation – that are not necessary or desirable, given the other opportunities to register that the City provides or is pursuing. The Election Law prohibits employers and union representatives, even if a voter so requests, from interceding in voters' election activities. We believe a landlord-tenant relationship, which is similarly unequal and financial, is analogous to these circumstances where intercession in voter activity is inherently inappropriate.

Many landlords do not have expertise in or familiarity with election laws or registering people to vote, and not every tenant in the City is eligible to register to vote in New York State or eligible to vote at the address where they have a lease. And tenants who receive a voter registration form together with a lease may mistakenly believe that the forms *must* be returned to the owner, who may not wish to collect them. We are also concerned about imposing additional burdens on owners of smaller buildings, many of whom manage their buildings themselves.

Finally, HPD is concerned about the inclusion of this provision in the Housing Maintenance Code, which was establishes housing quality standards for owners to maintain dwelling units for the benefits of tenants. We do not believe it is appropriate to add this requirement to a code that is focused on ensuring the health and safety of tenants. It is not clear that the bill may be properly enforced under the Housing Maintenance Code, given that its mandate is not related to housing standards, quality or maintenance.

For these reasons, we do not support the legislation.

If you have any questions, I will be pleased to answer them.

Thank you.

ALEXANDRA FISHER
DEPUTY COMMISSIONER FOR LEGAL AND REGULATORY AFFAIRS
NEW YORK CITY DEPARTMENT OF BUILDINGS

HEARING BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING & BUILDINGS
March 23, 2017

Good morning Chair Williams, members of the Housing & Buildings Committee and other members of the City Council. I am Alexandra Fisher, Deputy Commissioner for Legal and Regulatory Affairs at the New York City Department of Buildings ("Department"). I am joined by Assistant Commissioner for External Affairs Patrick Wehle, and Department of Finance Deputy Commissioner for Treasury and Payment Services Jeffrey Shear. We are pleased to be here to offer testimony on legislation that prohibits the issuance of building permits when certain outstanding debt is owed to the City.

Introductory Number 1133 requires the Department to withhold building permits for any property with $25,000 or more in outstanding debt to the City associated with it, or to the owners of a property if they owe $25,000 or more in debt to the City. Permits can be issued only if the Department determines that binding agreements regarding payment are being complied with, as certified by the property owner, or if the work is necessary to protect the public, or to tenants within a building who are not responsible for the debt.

The Department takes seriously its mandate to enforce the Construction Codes in an effort to protect the safety of the public. Some of the many examples of this include the 56,289 violations we issued last year, a 23% increase from 2013, along with over $128 million in penalties.

In certain instances the Department does use tools at its disposal to help ensure penalties are paid. For example, we will not renew a construction professional's license until all outstanding penalties are paid. Not just penalties resulting from violations issued by the Department, but penalties issued by any City agency. Additionally, we require penalties associated with work being performed without a permit be paid before issuing a permit for the work.

The Administration recognizes the importance of collecting outstanding debt to the City and applauds the City Council for exploring creative ways to increase collections. From the Department's perspective, when penalties for violating the Construction Codes are not paid, it makes our enforcement less effective, which is something we take quite seriously.

Requiring payment of debt to the City before permits are issued may very well incentivize owners to pay the debts they have incurred. However, what about the owners who lack the means or desire to pay the debt? Some will choose not to do the work. Others however may choose to do the work anyway, without permits. And absent the Department's regulatory review and enforcement, this work has the potential to negatively impact the safety of the public. Furthermore, should the Department uncover this unsafe and unpermitted construction, it will lead to additional penalties that ironically may further increase uncollected debt.

Last year the Department issued 8,006 violations for performing work without a permit, a twenty percent increase from 2015. Unfortunately, there are many property owners throughout the City who choose to perform illegal work, without proper safeguards, and absent the Department's scrutiny. And these are the bad actors whose decision to disregard the law is not encumbered by owing money to the City.

It is difficult to quantify the extent to which unsafe and unpermitted work would increase should this bill be enacted. Since our principal mandate is to enforce the Construction Codes to safeguard the public, any proposal, however well-intentioned, gives us pause if it has the potential to result in unsafe work.

This Committee is quite familiar with the recent increase in construction accidents across the City, and we appreciate the opportunity to continue to work with the Council to explore solutions to this problem. As we continue our discussion of this important legislation, it should be viewed not solely through the prism of debt collection, but in this context as well.

Less important, but still significant, is the bill's proposal to expand the Department's role in debt collection efforts, which resides well outside our mandate. It is not the Department's role, nor do we have the means to keep track of all debts to the City, any agreements to resolve the debt, or make a determination as to whether the debts were paid. Furthermore, requiring the Department to check whether property owners have outstanding debt with other agencies would significantly slow our permitting process overall – including for those applicants who have no outstanding debt at all.

In sum, while the Department is considering this legislation with an open mind, we think it warrants further discussion to determine the extent to which it may result in unsafe construction, and how it may be tailored to appropriately conform with the Department's mission and expertise.

Thank you for your attention and the opportunity to testify before you today. We welcome any questions you may have.

RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

Memorandum in Opposition
Intro. No. 750

The Rent Stabilization Association represents over 25,000 owners and managers in New York whose buildings collectively contain over 1 million units of housings. Registering to vote is a simple procedure and it should not be the responsibility of the owners and managers to distribute the forms to accomplish this. RSA is opposed to Intro. 750.

Voter registrations forms can be gotten in a variety of places including motor vehicle offices, elected officials offices and many government offices. Additionally anyone can download an application, call to have an application mailed to them, or register online if they have a valid driver's license. Bottom line is that it's easy and available to register. It's not the job of owners and managers to perform this process.

In preparing vacancy leases owners must provide riders specified by the state housing agency, HCR, a lead paint rider, a lead paint pamphlet, a window guard rider, and a rider telling tenants where they can obtain the tenants bill of rights. The likelihood that another form would be read or acted upon is dubious at best. An owner would now face a violation for not providing a voter registration form.

Owners have a number of other more pressing tenant related responsibilities. For the above reasons RSA is opposed to Intro. 750.

ARCHITECTS COUNCIL OF NEW YORK CITY INC.

14 EAST 38TH STREET, 11TH FLOOR, NEW YORK, NY 10016

FOR THE RECORD

Int. No. 1133

March 23, 2017

The denial of permits for owners with $25,000. or more in arrears owed to the city, as written will only delay the permits needed to make repairs to property that protect the public safety.

The requirement for the owner to state all properties owned in the city prior to a permit issuance is an invasion of the Owners privacy. Additionally, any requirement for professionals to attest to the veracity of such statements is beyond the professionals' scope and capacity.

The Department of Buildings has the ability to place a hold on any property. A more expeditious way to administrate such a policy, would be for the Department of Buildings, the Oath courts, the Department of Finance or any other city agency to partition the Department of Buildings to place a hold on a property when an access of arears is due the City.

Property taxes are often unpaid when there is a property tax assessment protest. This should not impede the owner's right to obtain a legal permit. Few properties in the City of New York have property taxes less than $25,000. per year. Additionally, condominium owners should not be penalized when one of the condominium owners in a building is in arrears. Arrears beyond the control of neighbor condominium owners.

The Architect Council of New York recommends int. No. 1133 not be passed as currently proposed.

Mr. Robert Strong, RA
Director of Legislative Impact
Architects Council of New York City

Legislative Memo
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REBNY
REAL ESTATE BOARD OF NEW YORK

MEMORANDUM OF OPPOSITION

BILL: Intro 750
SUBJECT: Requiring Landlords to Distribute Voter Registration Forms
DATE: March 23, 2017
SPONSORS: Ben Kallos, Fernando Cabrera, Costa G. Constantinides, Helen K. Rosenthal

The Real Estate Board of New York (REBNY) represents over 17,000 property owners, developers, managers, brokers, and other real estate professionals in New York City. While we commend the bill's well-intentioned efforts to promote civic participation, we oppose Intro No. 750 because it would place undue demands on landlords whose primary responsibility is to ensure the safety and quality of the housing provided to their tenants.

Intro No. 750 will require building owners of multiple dwellings to provide tenants with state voter registration forms upon a lease signing. This bill would also require owners to supply tenants with forms in several different languages within ten days, if requested. Additionally, owners may assist with completion of the form and if they choose to do such, the bill requires them to transmit any completed forms to the state Board of Elections within specified timeframes.

State and local laws already outline a lengthy task list for owners of multiple dwelling unit buildings to ensure the building's good repair and tenant safety.[1] This bill, while well-intentioned, would task owners with yet another responsibility well outside their mandate. It is laudable for the Council to promote civic participation, but building owners are simply not equipped nor trained to assist their tenants in completing a voter registration form. Furthermore, in some instances, some tenants do not use their units as primary residences and could be registered to vote in a jurisdiction other than New York State. Requiring the building owner to provide voter registration forms to the tenant may only lead to confusion and the possibility of a voter being registered in two jurisdictions.

Lastly, although the time requirements would help to ensure the prompt return of application forms, violations of those time frames will be hard to verify and will likely result in enforcement measures based on imprecise information. Similarly, landlords who choose to aid applicants may also unknowingly expose themselves to violations of state and federal laws because they may not be properly equipped to verify U.S. citizenship. The highest penalty for which is a fine of $5, 000 and up to four years of prison.[2]

For these abovementioned reasons, REBNY voices its opposition to Intro. No 750.

[1] See New York State Consolidated Laws, Title 27, Sub-section 2005 of the New York City Administrative Code.

[2] New York State Voter Registration Form. New York State Board of Elections. Web. July 2016. Accessed March 21, 2017. <http://www.elections.ny.gov/nysboe/download/voting/voteform_enterable.pdf>

From: Dan Margulies

Subject: RE: Housing & Buildings Committee Hearing Notice

I will not be able to attend the hearing but wish to submit comments for the record.

ABO has no basic objection to the principle of Int. 1133, but question the statement required of the owner requesting a permit. Many owners pay their taxes through a mortgage account, for example, and might not know if a timely payment had been made. We would not want to see any liability for an unwitting statement and would think the City could rely on its own records.

With regard to Int. 393, we have to point out the irony of issuing a violation and fine based on circumstantial evidence and then saying "A violation of this section which has been based on circumstantial evidence in accordance with this subdivision may not be deemed corrected unless the premises which is the subject of the violation has been inspected by the department." There should be an inspection before issuing a violation or fine in the first place.

Finally, we oppose Int. 750 as another burdensome paperwork requirement exposing property owners to penalties for something completely unrelated to the provision or maintenance of housing.

Legislative Memo
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State and local laws already outline a lengthy task list for owners of multiple dwelling unit buildings to ensure the building's good repair and tenant safety.[1] This bill, while well-intentioned, would task owners with yet another responsibility well outside their mandate. It is laudable for the Council to promote civic participation, but building owners are simply not equipped nor trained to assist their tenants in completing a voter registration form. Furthermore, in some instances, some tenants do not use their units as primary residences and could be registered to vote in a jurisdiction other than New York State. Requiring the building owner to provide voter registration forms to the tenant may only lead to confusion and the possibility of a voter being registered in two jurisdictions.

Lastly, although the time requirements would help to ensure the prompt return of application forms, violations of those time frames will be hard to verify and will likely result in enforcement measures based on imprecise information. Similarly, landlords who choose to aid applicants may also unknowingly expose themselves to violations of state and federal laws because they may not be properly equipped to verify U.S. citizenship. The highest penalty for which is a fine of $5, 000 and up to four years of prison.[2]

For these abovementioned reasons, REBNY voices its opposition to Intro. No 750.

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MEMORANDUM OF OPPOSITION

BILL: Intro 1133
SUBJECT: Denial of building permits where outstanding charges are owed to the city.
DATE: March 23, 2017
SPONSORS: James Vacca, Deborah L. Rose, Margaret S. Chin, Eric A. Ulrich

The Real Estate Board of New York ("REBNY") represents over 17,000 property owners, developers, managers, brokers, and other real estate professionals in New York City. The Building Owners and Managers Association of Greater New York ("BOMA/NY") represents more than 750 owners, property managers, and building professionals who either own or manage 400 million square feet of commercial space in NYC, and is the largest local within BOMA International, a federation of 90 US associations and 19 international affiliates that own and operate approximately 10.5 billion square feet of office space in the United States.

REBNY and BOMA oppose Intro No 1133 because it may discourage applicants from applying for building permits.

Intro No. 1133 proposes to prohibit the Department of Buildings (DoB) from issuing permits if $25,000 or more is owed to the City for the property in question. Owed charges may stem from unpaid fines, civil penalties, judgements, owed property taxes, or past due sewer or water charges. Applicants may be exempted from the bill if they can demonstrate an acceptable binding agreement, if the issuance of a permit is necessary for the correction of a violation, or if a tenant who is not an owner is looking for a permit.

The bill is well-intentioned in that it seeks to incentivize the payment of fines. However, this bill could also result in a multitude of unintended consequences. As a starting point, the City of New York imposes numerous costly fines for a variety of unrelated offenses. A relatively small amount of infractions could add up to the cap of $25,000 very quickly, which would halt the applicant from being able to access any further permits. Furthermore, the collection of infractions is generally left to other City agencies and eventually passed down to collection agencies, which could further delay the reissuance of building permits after fines are remunerated.[1] This would affect many builders across the city, forcing them to lay-off or sideline construction workers.

In addition, the bill fails to take into consideration that many violations are issued to tenants of properties, and not to owners or managers. Such violations, and their payment, is not under the control of the property owner. In addition, larger buildings, and those with more tenants, would be unfairly at risk from the bill, as they would be inherently prone to receiving more violations.

Even after judgement is imposed, many violations are subsequently challenged and appealed to higher tribunals. Under this bill, the applicant will be barred from obtaining any further building permits until judgement is satisfied. And in the cases where judgment is overturned or modified, the applicant would have been unnecessarily harmed because her building projects would not be able to proceed. This

[1] Anuta, Joe. "*City Levies Fines, But Fails to Collect Over Half-Billion From Landlords: Flaws in System Let Owners Continue Construction Despite Violations."* Crain's. Web March 28, 2016. http://www.crainsnewyork.com/article/20160328/REAL_ESTATE/160329884/new-york-city-levies-fines-but-fails-to-collect-over-half-billion-from-landlords

would undoubtedly affect already-tight building schedules around the city and the production of affordable housing.

In the worst-case scenario, builders denied permit issuance because of outstanding debt may choose to go ahead with their project, which will only compromise the public's safety because DoB will not be able to track these transgressors.

Although the bill allows for exceptions to the rule as long as a building owner can demonstrate a binding agreement or in instances where a permit is necessary to correct dangerous conditions, this will add another regulatory layer for many building owners who may choose instead to forego the process in its entirety.

Lastly, the reporting requirements of the bill are extensive and burdensome. Large buildings often have complex and interlocking ownership structures and can be partially owned by banks via a mortgage or by investors. Attempting to ascertain information about each owner's violations or other money owed the City, and subsequently disclosing this information would be incredibly difficult. It would also expose a large number of buildings to a single owner's violation of the $25,000 limit.

For these abovementioned reasons, REBNY and BOMA voice their opposition to Intro No. 1133.

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Daniel Avery
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Director of Legislative Affairs
212-239-3662 x 204

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 750 Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Jeffrey Shear, Deputy Commissioner

Address: 1 Centre Street

I represent: Dept of Finance

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 750 Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Frank Ricci

Address: _____

I represent: Rent Stabilization Assoc

Address: _____

If needed

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Terri Davis-Merchant

Address: _____

I represent: HPD

Address: _____

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

If needed

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1133 Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Patrick Wehle

Address: Term Dir., Merchant

I represent: Department of Buildings

Address: 11th D

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1133 Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Timothy Hogan
Jeffrey

Address: _____

I represent: Department of Finance
Department of Buildings

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1133 Res. No. _____

☐ in favor ☐ in opposition

Timothy Hogan

Jeffrey

Date: _____

(PLEASE PRINT)

Name: Alexandra Fisher

Address: Dept of Buildings

I represent: _____

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 756 Res. No. _____

☐ in favor ☒ in opposition

Date: 3/23/17

(PLEASE PRINT)

Name: HENRY BERGER

Address: CITY HALL

I represent: ADMINISTRATION

Address: _____

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