

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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June 16, 2010  
Start: 10:22 am  
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HELD AT: Council Chambers  
City Hall

B E F O R E:  
ERIK MARTIN DILAN  
Chairperson

COUNCIL MEMBERS:  
Rosie Mendez  
James S. Oddo  
Brad Lander  
Elizabeth Crowley  
Melissa Mark-Viverito  
Jumaane D. Williams  
Joel Rivera  
Lewis A. Fidler  
Eric Ulrich  
Gale A. Brewer  
Letitia James

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

Nancy Clark  
Assistant Commissioner of the Bureau of Environmental  
Disease Prevention  
Department of Health and Mental Hygiene

Vito Mustaciuolo  
Deputy Commissioner of Enforcement and Neighborhood  
Services  
Department of Housing Preservation and Development

Veronica Mitafuentes

John Whitlow  
Supervising Attorney  
Make the Road New York

David Uranya  
Harvey Epstein  
Community Development Project  
Urban Justice Center

Michelle de la Uz  
Executive Director  
Fifth Avenue Committee

Adriana Mendoza

Victor Rosario  
Member  
Make the Road New York

Marliana Cuchay

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2 SERGEANT-AT-ARMS: Quiet, please.

3 CHAIRPERSON DILAN: Good morning,  
4 everyone, I'd like to convene the City Council's  
5 Committee on Housing and Buildings. I am the  
6 Chair of the Committee, Erik Martin Dilan, and  
7 today the Committee will conduct an initial  
8 hearing on Introduction 224, which is a Local Law  
9 to amend the Administrative Code of the city in  
10 relation to establishing a pilot program for the  
11 remediation of mold and vermin in certain multiple  
12 dwellings. The City's Department of Housing  
13 Preservation and Development is the local agency  
14 responsible for ensuring that tenants have a  
15 decent, safe, and sanitary housing. Central to  
16 meeting this obligation is obviously effective  
17 code enforcement.

18 The legislation before us today  
19 would create a mold and vermin remediation pilot  
20 program, which is intended to alleviate serious  
21 mold and vermin problems in the worst 175  
22 buildings in the city by forcing the ownership to  
23 make effective repairs or to ensure that HPD  
24 effectuate repairs in a more comprehensive fashion  
25 so that conditions that may cause asthma are

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2 alleviated and that the underlying physical  
3 conditions related to the Housing Code and Health  
4 Code violations are looked at. And this obviously  
5 will deal with the accumulation of water, mold,  
6 rubbish, and vermin or rodent infestations that  
7 are intended to be addressed by the legislation.

8 Today, the Committee expects to  
9 hear and receive testimony regarding this bill  
10 from representatives of HPD who are here in  
11 attendance, as well as the Department of Health  
12 and Mental Hygiene, as well as tenant housing  
13 advocates, and representatives from the real  
14 estate industry.

15 And as I said earlier, if you want  
16 to speak on the legislation, whether in favor or  
17 opposed, please see the Sergeant-at-Arms and fill  
18 out an appearance card.

19 And I guess at this time I'll  
20 introduce my colleague who is here and is the main  
21 sponsor of the bill. I recognize her if she wants  
22 to make a brief opening statement and that's  
23 Council Member Mendez. Council Member Mendez.

24 COUNCIL MEMBER MENDEZ: Thank you  
25 very much, Mr. Chair. This legislation is

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2 actually the outcome of a previous legislation  
3 that we had in the last legislative session, and  
4 it's radically different in that this one  
5 establishes a pilot program and establishes a  
6 certain amount of buildings that we will look at  
7 to do the remediation, instead of creating a  
8 citywide law. I think that this Intro makes a lot  
9 of sense. We then can analyze what has happened  
10 in these 175 buildings of varying units and that  
11 we would have real data to then go back and  
12 determine what really is the outcome of mold and  
13 vermin on residents throughout New York City.

14 I want to thank HPD for being here  
15 and my colleagues who showed up, and I look  
16 forward to listening to your testimony and to that  
17 of the advocates. Thank you.

18 CHAIRPERSON DILAN: We've also been  
19 joined briefly by the--oh, he is sitting behind  
20 me, by the Republican Leader Jimmy Oddo, as well  
21 as Council Member Brad Lander of Brooklyn.

22 So today we have two agencies  
23 before us to testify. I will let the agencies  
24 choose their prerogative as to who goes first.  
25 And at this point, you may begin, just begin by

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identifying yourself clearly for the record.

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NANCY CLARK: Good morning,

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Chairman Dilan and Members of the Housing and

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Building Committee. I am Nancy Clark, Assistant

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Commissioner of the Bureau of Environmental

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Disease Prevention at the Department of Health and

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Mental Hygiene. I am joined today by Vito

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Mustaciuolo, Deputy Commissioner of Enforcement

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and Neighborhood Services at the Department of

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Housing Preservation and Development. Thank you

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for the opportunity to discuss our commitment to

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controlling asthma triggers in homes, and

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specifically Intro 224, the Council's Mold and

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Vermin Remediation proposal.

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As some members of the Committee

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may know, in addition to promoting improved

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medical management of people with asthma, the

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Health Department also promotes the control of

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asthma triggers in homes. Asthma triggers in the

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home include secondhand smoke, dust, irritating

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cleaning products, and strong odors, as well as

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mold and pest allergens.

24

Since 1993, the Health Department

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has issued voluntary guidelines on the assessment

1  
2 and remediation of mold in indoor environments.  
3 The purpose of the mold guidelines is to educate  
4 building owners and workers on issues related to  
5 indoor mold, offer an approach to assess mold  
6 growth, and provide general guidance on the  
7 removal of mold growth in commercial, school, and  
8 residential buildings. The guidelines also advise  
9 that moisture sources be identified and repaired  
10 so that mold growth will not recur. The  
11 guidelines recommend that mold growth be removed  
12 by washing affected surfaces with soap and water  
13 and that measures be taken to prevent the spread  
14 of mold particles from the treated area during  
15 remediation. In addition to the mold guideline,  
16 the department also publishes and distributes  
17 other educational materials on correcting mold  
18 problems in buildings.

19 Safe and effective pest control is  
20 also an integral component of our asthma trigger  
21 work and involves the practice of Integrated Pest  
22 Management, or IPM. IPM relies on methods to  
23 prevent pests from entering the home and keeping  
24 them away from food and water sources. Common IPM  
25 techniques include caulking and sealing cracks and

1  
2 openings, repairing moisture problems, and using  
3 safer pest control products.

4 Building occupants have an  
5 important role in preventing pests by cleaning and  
6 removing clutter, storing food and garbage in  
7 covered containers, and reporting infestations to  
8 building owners.

9 Article 151 of the New York City  
10 Health Code was recently revised to include more  
11 explicit requirements for preventing pests. The  
12 revision shifts the emphasis from the use of  
13 pesticides for pest control to preventing pests  
14 and infestations through Integrated Pest  
15 Management. Article 151 is enforceable by the  
16 Health Department, as well as the Department of  
17 Buildings and HPD.

18 The Health Department and HPD have  
19 a strong working relationship to promote healthy  
20 housing, including the reduction of lead paint  
21 hazards, pests, and mold. We regularly  
22 collaborate on educational initiatives for  
23 building owners, contractors, and tenants on ways  
24 to reduce health hazards in the home and provide  
25 technical assistance to each other when needed.



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2                   When HPD and DOHMH originally  
3 discussed creating a mold and vermin pilot  
4 initiative of up to 100 buildings, the purpose of  
5 the pilot was to assess the cost, benefits, and  
6 implementation issues of addressing mold and  
7 vermin conditions as full buildings, rather than  
8 individual responses to specific complaints unit  
9 by unit. The program was proposed as a pilot so  
10 we could have the flexibility to modify our  
11 methods and strategy to achieve the most optimal  
12 and cost-effective results. At the end of the  
13 process there would be an evaluation piece to see  
14 if building-wide approach is effective and  
15 identify areas where a program could be improved.  
16 In addition, a key component to our pilot would be  
17 education for both the owners and tenants alike.  
18 Following discussions with the Council and  
19 advocates, the original pilot was expanded into  
20 Intro 224.

21                   I want to be clear that both DOHMH  
22 and HPD support the basic framework of the mold  
23 and vermin remediation proposal before you today,  
24 however, due to the significant costs that Intro  
25 224 would impose on our agencies, we cannot

1 support the bill as currently drafted. In the  
2 interest of being fiscally responsible, we must  
3 examine this program in the context of all of our  
4 other mandated responsibilities and ongoing  
5 initiatives. Due to the stringent requirements of  
6 Intro 224, the pilot, as proposed by the Council,  
7 would cost HPD \$7.5 million and DOHMH 1.9 million.  
8 The original proposed pilot was estimated to cost  
9 HPD approximately 3 million and DOHMH 1.1 million.  
10 Regardless of how we implement the pilot program,  
11 there will be significant costs to both agencies  
12 that must be taken into consideration.  
13

14 While we are committed to make a  
15 mold and vermin initiative work, even a \$5 million  
16 price tag would be a huge burden for us at this  
17 time as operating budgets continue to be reduced  
18 across city agencies. As an example, since the  
19 original concept of the pilot, the Health  
20 Department, along with other agencies, has  
21 experienced a reduction in resources, including a  
22 two-thirds reduction in our lot cleaning  
23 workforce. We had originally intended to train  
24 these employees to assist in implementing the IPM  
25 portion of this pilot program, but we are no

1  
2 longer able to do so. In addition, HPD's PEG  
3 targets were totaled over \$18.2 million and DOHMH  
4 has experienced 10% staff cut to our Lead  
5 Poisoning Prevention and Healthy Homes program,  
6 along with a reduction in federal grant funding.

7 Compounded, all of these factors  
8 severely hamper our ability to comply with the  
9 requirements of Intro 224. We are currently  
10 exploring additional ways to still reach the goals  
11 of the original proposal within our current budget  
12 constraints and hope to come back to the Council  
13 with more realistic implementation measures soon.

14 VITO MUSTACIUOLO: Good morning,  
15 Chairman Dilan and Members of the Housing and  
16 Buildings Committee, my name is Vito Mustaciuolo  
17 and I am the Deputy Commissioner for Enforcement  
18 and Neighborhood Services at HPD.

19 Currently, HPD responds to  
20 complaints of vermin and mold conditions when  
21 reported by tenants through 3-1-1. In fiscal year  
22 2009, HPD issued almost 15,000 violations for  
23 mold, about 2,000 as Class C, immediately  
24 hazardous conditions. A mold condition is  
25 generally cited as a Class C condition, whether

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2 it's more than 25 square feet in a room or 100  
3 square feet in an apartment. HPD also issued more  
4 than 31,000 vermin violations siting mice,  
5 roaches, and other vermin in 2009.

6 As proposed by the bill before you  
7 today, HPD and DOHMH would choose buildings with  
8 the highest number of open hazardous and  
9 immediately hazardous mold and vermin violations  
10 and Health Code violations related to the  
11 accumulation of water, mold, rubbish, and vermin  
12 or rodent infestation to participate in the pilot  
13 program. HPD and DOHMH would notify property  
14 owners that they have been chosen to participate  
15 in the pilot program and would also need to notify  
16 the tenants of the multiple dwellings and the  
17 Council Members in whose district the buildings  
18 are located.

19 Once the owners have been notified,  
20 they would have three months to correct existing  
21 violations related to the accumulation of water,  
22 mold, rubbish, and vermin, or rodent infestation.  
23 If the owner of the property believes that the  
24 violations have already been corrected, he or she  
25 could request a reinspection from HPD. A

1  
2 reinspection would have to be conducted within 60  
3 days of the receipt of the request, and HPD would  
4 have to provide a written response to that request  
5 within 20 days of the reinspection.

6 In order for a building to be  
7 deemed substantially complied the owner would have  
8 to correct 100% of all B and C mold violations and  
9 80% of all other B and C violations that are  
10 related to this pilot initiative using DOHMH's  
11 current mold guidelines and Integrated Pest  
12 Management measures.

13 HPD would then have to register the  
14 multiple dwelling and monitor the building's  
15 compliance for nine months before releasing the  
16 building from the program. [Coughs] Excuse me.  
17 In addition, HPD and DOHMH or a designated not-  
18 for-profit would also have to provide information  
19 on home-based hazards and measures for the control  
20 and elimination of mold, vermin, and rodents to  
21 distribute to owners, managing agents, and tenants  
22 before the building could be discharged from the  
23 mold and vermin remediation program.

24 Although the bill requires HPD to  
25 monitor buildings for an additional nine months,

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2 we believe from our experience that six months is  
3 a more appropriate monitoring period. Similar to  
4 the Alternate Enforcement Program, if the owner of  
5 the property does not submit a dismissal request  
6 after three months, HPD would perform a building-  
7 wide inspection in which we would coordinate with  
8 the DOHMH where appropriate. If underlying  
9 conditions warrant the replacement of any systems,  
10 HPD would file an order with the local County  
11 Clerk's office to order the owner to replace those  
12 systems. If vermin or rodent infestations are  
13 present, DOHMH would issue an order for the owner  
14 to implement an Integrated Pest Management system  
15 throughout the building. Within 30 days of the  
16 filing of the order, HPD would prepare a scope of  
17 work to correct the violations and DOHMH would  
18 provide information to owners on how to implement  
19 pest management strategies.

20 As HPD cannot reasonably  
21 participate in the daily maintenance of a  
22 privately owned building, we believe the bill  
23 should be revised to allow DOHMH and HPD to  
24 develop an alternative IPM protocol to address  
25 vermin issues for the pilot program. HPD would

1  
2 reassess the progress of work performed to correct  
3 violations on a quarterly basis. If after three  
4 months work is not progressing in a timely fashion  
5 or an owner has not requested reinspection, the  
6 agencies would have to conduct a building-wide  
7 inspection and issue an order to correct the mold  
8 and vermin violations and related underlying  
9 conditions.

10 If the owner fails to comply, HPD  
11 would then take over the repairs. Given our  
12 experience with the Alternative Enforcement  
13 Program, we believe that owners should have six  
14 months to correct violations instead of three  
15 since the owner needs to secure financing, work  
16 with tenants to arrange access and/or relocation,  
17 hire a contractor, and file for appropriate  
18 permits in order to begin the necessary work.

19 Lastly, Intro 224 would require  
20 both agencies to report back to the Council on the  
21 results of the remediation pilot, the  
22 effectiveness of the pilot program, the most  
23 effective pest management and mold remediation  
24 methods that were utilized, and issue  
25 recommendations on whether or not the pilot should

1  
2 be extended or modified.

3 As you can see from both Nancy and  
4 my comments, the pilot program before you today,  
5 would require great efforts and resources by both  
6 agencies.

7 In summary, I would like to  
8 emphasize that we are committed to working with  
9 you to develop a mold and vermin remediation  
10 program that works for owners and tenants alike,  
11 while also providing the agencies with flexibility  
12 in its implementation and evaluation.

13 We have closely collaborated with  
14 you over the years on many initiatives and look  
15 forward to continuing that relationship in order  
16 to hold recalcitrant owners responsible for their  
17 property when they fail to maintain their  
18 buildings in a healthy and safe manner. However,  
19 in this difficult fiscal environment, we must be  
20 cognizant of the cost of any new measures.

21 Thank you for the opportunity to  
22 testify before you today. Nancy and I will be  
23 happy to answer any questions you may have at this  
24 time.

25 CHAIRPERSON DILAN: Before we get



1  
2 to questions, just a little housekeeping on  
3 members who have arrived. We've been joined by  
4 Council Member Elizabeth Crowley of Queens,  
5 Council Member Melissa Mark-Viverito of Manhattan,  
6 Council Member Jumaane Williams of Brooklyn,  
7 Council Member Joel Rivera of the Bronx, Council  
8 Member Lew Fidler of Brooklyn.

9 I'm going to just make a brief  
10 statement then defer to Council Member Mendez for  
11 the opening round of questions. Just by listening  
12 to your testimony, it sounds like conceptually  
13 we're in the same--basically on the same sheet of  
14 music and I would to some degree say I agree with  
15 your assessment that we have to be mindful of  
16 costs and try to do this in a more cost efficient  
17 manner, so I look forward to working with both  
18 agencies to get this done and if we can do it more  
19 cost effectively for the city and for the industry  
20 as well, I look forward to that. But I would hope  
21 that our objections over cost would not keep the  
22 bill or the pilot program from becoming a reality.

23 So with that, I'll go to Council  
24 Member Mendez for questioning, and she'll be  
25 followed by Council Member Williams.

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2 COUNCIL MEMBER MENDEZ: Thank you  
3 very much, Mr. Chair. My first question is  
4 regarding inter-agency cooperation and you  
5 mentioned here that you will be working together.  
6 Can you explain a little bit more fully how that  
7 would work? I've had issues with other agencies  
8 working together at least trying to resolve common  
9 problems, it just takes a little work. And one of  
10 the issues that when we were discussing this  
11 legislation that sort of came to my mind is if a  
12 building inspector comes over and issues a  
13 violation for vermin and if DOHMH comes over, who  
14 has jurisdiction about the vermin if it's in an  
15 apartment or building-wide and how would that work  
16 cooperatively between the two agencies?

17 [Pause]

18 VITO MUSTACIUOLO: As you can tell  
19 from our response, we do have a great working  
20 relationship. DOHMH and HPD have for many years  
21 have had a great partnership on issues such as  
22 lead paint hazards, mold in the past, vermin  
23 infestation. We share information from our  
24 databases on a daily basis. HPD does have  
25 jurisdiction when a complaint is received for

1  
2 infestation within an apartment. If we do find  
3 that a condition is beyond the apartment, if it's  
4 building-wide, we do make referrals to DOHMH, we  
5 do joint inspections together with DOHMH, in fact,  
6 we even have joint training programs for our  
7 inspectors. So the collaboration is there and  
8 certainly the commitment on both agency's parts to  
9 make a pilot successful is there as well. Would  
10 you like to--

11 NANCY CLARK: Yeah, I would just  
12 add that in our new pest control Article in the  
13 Health Code, Article 151 which requires building  
14 owners to use Integrated Pest Management  
15 techniques, that we provided for and have  
16 agreement from both Department of Buildings and  
17 HPD to be enforcement agents for that Article. So  
18 that part of the Health Department's program  
19 extends beyond our agency to other enforcers.

20 COUNCIL MEMBER MENDEZ: And in  
21 terms of my example about a violation for vermin  
22 and rats, who has initial jurisdiction, would that  
23 be DOHMH? I mean, we certainly don't want to make  
24 owners get two violations for the same issue.

25 NANCY CLARK: Yeah, he can jump in

1  
2 if I overstep. We actually both have jurisdiction  
3 on this program, we're certainly completely  
4 collaborated so that wouldn't happen. The bulk of  
5 inspections will be carried out by HPD, but the  
6 Health Department will be very engaged in  
7 reviewing it every step of the way. And on pest  
8 violations it'll be an order from the Health  
9 Department to the building owner, whether or not  
10 it's issued by us, by Health, or by HPD, but you  
11 have to see it as a unified team. So in this  
12 case, we wouldn't be so much agency by agency, but  
13 as this kind of Healthy Homes Initiative team.

14 COUNCIL MEMBER MENDEZ: Thank you.  
15 On page two of your testimony, you run through  
16 some of the numbers of what this pilot program  
17 would cost--7.5 million for HPD, 1.9 million for  
18 DOHMH, as opposed to the pilot as originally  
19 proposed would have been 3 million for HPD and 1.1  
20 million for DOHMH. Are these numbers based just  
21 on the number of buildings in the pilot program or  
22 these numbers also based on what you estimate the  
23 agency will have to pay if the owners do not  
24 comply?

25 VITO MUSTACIUOLO: Yeah [off mic].

NANCY CLARK: Oh, here.

[Off mic]

VITO MUSTACIUOLO: Actually, the numbers are actually a combination of the two. The original pilot, the way we had envisioned it would not result in an increased number of staffing to the agency. We were hoping to conduct a pilot during our off-season, which is at the end of heat season, when we had resources available during the summertime so we did not consider or contemplate an increase in staffing. With the proposed pilot of 175 buildings, we would actually have to staff up to implement that program.

In addition to which, with the increased number of buildings, we anticipated that the agency would also have to step in and conduct more emergency repair work, do more systems replacement work, obviously with a larger number of buildings.

COUNCIL MEMBER MENDEZ: Based on your experience of compliance of owners in the past?

VITO MUSTACIUOLO: Based on our experience of compliance, we've also looked at the

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2 Alternative Enforcement Program, which is a  
3 program that we're currently--where we're doing  
4 systems replacement. So we've looked at the  
5 success rate of owners in that program and where  
6 HPD has had to step in.

7 COUNCIL MEMBER MENDEZ: When you  
8 say you're going to need to increase staff, is  
9 that because you need to hire additional or  
10 because there's been an attrition and now you need  
11 to bump those numbers back up?

12 VITO MUSTACIUOLO: No, it would  
13 mean that we would have to hire staff to actually  
14 implement the pilot program as proposed.

15 [Pause]

16 COUNCIL MEMBER MENDEZ: On page  
17 three of your testimony under requirements under  
18 Intro 224, you talk about how many violations--  
19 15,000--were issued for mold and how many were C  
20 violations. Can I ask you, of those violations  
21 that were issued, do you have any numbers of how  
22 many were reoccurring violations after they were  
23 cured, the same violation came back in the same  
24 location at the same apartment?

25 VITO MUSTACIUOLO: I do not have

1  
2 that number available at this time, we can  
3 certainly get back to you with that. What I do  
4 know though is that the number of violations that  
5 were issued, the 15,000 that we cited, that's both  
6 a combination of Class B and C violations for  
7 mold, we issued that in approximately 6,100  
8 distinct buildings. So there were certainly  
9 conditions that we saw that reoccurred, but we  
10 will have to do a more in-depth analysis to tell  
11 you how often that happened.

12 COUNCIL MEMBER MENDEZ: Thank you,  
13 and when you have that, if you could share that  
14 with the Committee, that would be very helpful.

15 You mention the cost to the agency,  
16 and certainly during these fiscal times that's  
17 something we need to be very cognizant of. We  
18 will certainly like to work with the  
19 Administration to figure out ways of bringing down  
20 costs. What, if any, measures, besides reducing  
21 the number of buildings in the pilot project do  
22 you think would help bring down costs? Looking at  
23 some of the timelines that we've set in this  
24 pilot, if we tweak some of those timelines, would  
25 that help bring down the costs?

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[Off mic]

[Pause]

VITO MUSTACIUOLO: Yeah, I really, I believe that the timelines are certainly a factor, but I think just kind of tweaking the timelines will not significantly reduce the cost. What I think we would both--both agencies would like to work on is to look at some of the existing programs that we have and to see if we can expand on some of the existing programs that would result in less of a cost to the agencies. So as opposed to creating a whole new program and basically building it from scratch, look at what we have and see if we can expand on that.

[Pause]

COUNCIL MEMBER MENDEZ: Thank you. If you can talk me through how HPD would prioritize how some of the buildings will be selected for this program and some of the targeting of either geographic locations or buildings with unit size, how you plan to target some of them.

VITO MUSTACIUOLO: I'm sorry, are you referring to the pilot as--right, yeah. I



1  
2 mean, we did look at some information, we ran  
3 numbers based on the 100 buildings and 175  
4 buildings, and what we looked at as a measure were  
5 pre-existing or open violations for conditions  
6 such as mold and vermin infestation. The areas  
7 that the buildings fell into pretty much fell in  
8 line with what the Department of Health has been  
9 monitoring as areas of where there are high cases  
10 of asthmatics. So we believe that the  
11 neighborhoods that we identified based on just our  
12 violation information seems to have coordinated  
13 according to what the health statistics are.

14           Prioritizing within the program, I  
15 mean, we really didn't look at it as if we were  
16 going to take 100 or 175 buildings and come up  
17 with a priority order within that group. I mean,  
18 we looked at it as if the pilot had 100 buildings,  
19 we would have to address the 100 buildings. So  
20 I'm not quite certain, I mean, we didn't really  
21 look at within that 100 coming up with a  
22 prioritization of those 100 buildings. What we  
23 really felt strongly though was that the education  
24 piece would have a huge effect on, not only the  
25 buildings in the program, but also in the

1  
2 surrounding buildings in the community because we  
3 really had hoped to implement an education program  
4 that went beyond addressing the owners of those  
5 buildings and the tenants within those buildings.

6 COUNCIL MEMBER MENDEZ: Thank you,  
7 Mr. Chair, if we have time at the end, I might  
8 want to come back for another question, but thank  
9 you very much.

10 CHAIRPERSON DILAN: Council Member  
11 Williams, followed by Lander.

12 COUNCIL MEMBER WILLIAMS: Thank  
13 you, Mr. Chair, and thank you, Assistant  
14 Commissioners, for your testimony, I know we have  
15 some people being translated so I want to say  
16 hola, buenos dias.

17 First, and I know this was great  
18 testimony, just well first, and I'm sorry I missed  
19 the beginning, was there an original pilot that  
20 you had proposed and now it's being changed? I  
21 know there was a reference to an original pilot,  
22 so is that one that existed?

23 VITO MUSTACIUOLO: That we had  
24 discussed in an earlier proposal, yes.

25 COUNCIL MEMBER WILLIAMS: All

1  
2 right. And just really briefly, and I was here,  
3 but just walk me through again how the pilot  
4 works, how the program was going to work.

5 NANCY CLARK: Just in a nutshell,  
6 the way the pilot program would work is that  
7 Health Department, along with HPD, we would select  
8 buildings primarily based on open violations and  
9 history, we would give a notice to building owners  
10 along with their tenants, as well as the electeds  
11 in the area that these buildings had been selected  
12 for this program, and that we expected the  
13 building owners to correct all the violations.  
14 We'd give them a timeframe in which to do that,  
15 once they notified us that the violations had been  
16 corrected, we'd do a--HPD would do a inspection to  
17 verify that.

18 If the owner doesn't correct or  
19 doesn't notify us, then we would do a building-  
20 wide inspection and order accordingly based on--  
21 but looking at mold and pest violations of  
22 different units. We would then monitor the  
23 building owners' compliance with our orders and  
24 monitor them for some time frame.

25 In the meantime, we'd be offering

1  
2 education both to building owners and also to  
3 tenants. And well in our original proposal we  
4 also wanted to extend those educational  
5 initiatives to the community at large, hoping to  
6 get leverage as much as we can from that.

7 COUNCIL MEMBER WILLIAMS: And  
8 before I continue, I just wanted to make sure I  
9 said it's great to see two agencies working  
10 together to try to deal with an issue and it'd be  
11 great to see that happen more often.

12 So now also when you discussed how  
13 many instances of the B and C violations,  
14 particularly in the mold and the rat, do you have  
15 an average time of how long it takes for an owner  
16 to cure it and how long it took on average for HPD  
17 or Mental Health to--I'm sorry, I said the agency  
18 wrong, but how long it took for an agency to step  
19 in?

20 VITO MUSTACIUOLO: Again, I don't  
21 have that detailed analysis, but I will certainly  
22 get you the information.

23 COUNCIL MEMBER WILLIAMS: That will  
24 be great. Also, my problem is, there's laws on  
25 the books now that owners just kind of ignore.

1  
2 What is the teeth in this pilot program, what's  
3 going to force the owners to do it, even if you  
4 have to follow up and then the whole process, what  
5 happens if they still don't make the remediations?

6 VITO MUSTACIUOLO: Yeah, I mean,  
7 this pilot, as all our enforcement efforts, we do  
8 have the ability to step in and perform work for  
9 the emergency repair program and actually that's  
10 really where a bulk of the cost will come into  
11 play, but when we did our analysis we did look at  
12 how much additional work the agency would have to  
13 do if an owner did not comply. There are other  
14 measures that we can take, we can initiate a court  
15 action, so we can start a comprehensive litigation  
16 case if an owner doesn't comply. So there are  
17 various alternatives. The Health Department has  
18 an administrative tribunal that perhaps we can  
19 avail ourselves of.

20 But, again, what we're really  
21 looking to do is to kind of approach this as a  
22 building-wide issue as opposed to an apartment by  
23 apartment specific case-by-case basis, and we  
24 really believe that the education piece--and we  
25 have seen it in other areas where we have

1  
2 conducted owners' nights and we are actually, as  
3 Commissioner Cestero, in his testimony last week  
4 to the Committee, mentioned we're starting tenant  
5 education nights. So we believe that we can  
6 accomplish much of what we hope to through the  
7 pilot program through education.

8 COUNCIL MEMBER WILLIAMS: I know  
9 firsthand that you're a genuine and trying to get  
10 this stuff worked out and I appreciate it, and I'm  
11 assuming Ms. Clark is the same. But just for  
12 being on the other side, there are great tools  
13 like the court action, it just takes so long to  
14 actually get that started. Does this make that  
15 happen quicker or it's just combining efforts?  
16 There's going to be no--is there going to be no  
17 time saved with this new program?

18 VITO MUSTACIUOLO: Yeah, honestly  
19 I'm not quite certain that the pilot program would  
20 necessarily get us to that end any quicker. It  
21 certainly would not get us into Housing Court any  
22 quicker, but, again, looking at the building as a  
23 comprehensive approach, I think there are some  
24 benefit to that because, again, we would not be  
25 addressing conditions with just within an

1  
2 apartment as we currently do now. So I think that  
3 that's probably the biggest benefit that we hope  
4 to accomplish from any pilot program.

5 COUNCIL MEMBER WILLIAMS: So the  
6 basic benefit is just have a more comprehensive  
7 look at the problem and how to deal with it, not  
8 to get the problem fixed quicker.

9 VITO MUSTACIUOLO: I think they go  
10 hand in hand until you can identify what the  
11 problem is and come up with a solution to that  
12 problem--

13 COUNCIL MEMBER WILLIAMS:  
14 [Interposing] You know, because I'm in support of  
15 obviously looking at it more comprehensively, but  
16 I also need these things to be remediated much  
17 quicker than they are and I don't know how to do  
18 that, I don't know, it sounds like this bill  
19 doesn't do that, I don't know if you have ideas on  
20 how to get that done and how to put some teeth if  
21 owners don't do it.

22 VITO MUSTACIUOLO: I certainly  
23 think we should pursue that and have conversations  
24 with the Council to that end.

25 COUNCIL MEMBER WILLIAMS: Thank

1  
2 you.

3 CHAIRPERSON DILAN: Yeah, I would  
4 also add that the legislation and the pilot  
5 program requires the problem to be corrected  
6 within three months and then HPD would be forced  
7 to step in to correct the problem if the owner  
8 doesn't act, so that's a bit of information for  
9 the Council Member.

10 Council Member Lander, then after  
11 that, the list is open so if any members want to  
12 jump in, just please grab my attention, Council  
13 Member Lander.

14 COUNCIL MEMBER LANDER: Thanks very  
15 much, Mr. Chairman, and to Council Member Mendez  
16 for introducing the bill. I want to start by  
17 extending on Council Member Williams' praise of  
18 the collaboration, not just with the agencies, but  
19 with the advocates that are here, with the  
20 Council, with the Administration. This is a  
21 significant problem in confronting asthma and  
22 confronting the mold and pest triggers. And,  
23 obviously, what was initially proposed was quite  
24 broad and something that in concept I still  
25 support and I think, to the credit of the



1  
2 Administration, rather than saying we're not ready  
3 to take significant steps so we can't do anything,  
4 to design a smart pilot program to bring these two  
5 agencies together and to really give us some data  
6 on what will work and whether the new Integrated  
7 Pest Management and this approach works is great.  
8 And I'd love to see more of that, when we identify  
9 a common problem that we work together to develop  
10 this kind of solution. So I want to start by  
11 saying thank you for that.

12 Just a couple of questions about  
13 how we're going to do it. First on the funding,  
14 is this something that the federal home dollars  
15 could be used to support? I mean, I know there's  
16 a limited amount of home dollars in the agency,  
17 but....

18 NANCY CLARK: We would love to tap  
19 into federal dollars to support this program. Our  
20 original discussions of the pilot when we first  
21 started talking with HPD was let's get a pilot off  
22 the ground, let's go after this on a building-wide  
23 because that's what's innovative here, looking at  
24 the building as a whole. Because I think  
25 everybody in New York City knows that it's hard to

1  
2 control pests and sometimes mold unit by unit, but  
3 to really go after the full building.

4 We would hope that one of the  
5 successes of this program would be a package that  
6 we could present to the federal funding agencies  
7 and look for dollars to support that, and we think  
8 that this is a program that's innovative and has  
9 some real hallmarks for success. I think most  
10 agencies have done a lot of work in the area,  
11 there's a lot of support both from the Council and  
12 from the community at large and the advocates that  
13 we think make that a very compelling--could make  
14 it a compelling proposal.

15 COUNCIL MEMBER LANDER: That's  
16 great in the long-term for [off mic], I guess I  
17 was thinking more in the short-term that I think  
18 some chunk of the HPD inspectors have in the past  
19 been funded either with home dollars or with  
20 Community Development Block Grant dollars where  
21 they're either in CD-eligible census tracts or....  
22 And sometimes since those home and CDBG dollars  
23 are otherwise used by the agency, both on the  
24 expense side but also on the capital side, there  
25 might be a way to make sure we can do this in the

1  
2 smartest and most resource efficient way. So I  
3 know Vinnie's job is to actually get buildings  
4 fixed and inspected, make sure people are  
5 following the code and not necessarily to figure  
6 out how to put the federal dollars into, you know-  
7 -but it's something I would love to know if we  
8 could use existing home and CDBG money that the  
9 city has. Long-term it'd be great to bring in new  
10 dollars, obviously, that's what we all would like.  
11 In the short-term, we want to get this program  
12 then we want to get up and running so we probably  
13 don't have time to apply for a competitive federal  
14 program, but if existing federal resources can be  
15 used, there might be some opportunity to figure  
16 out how to structure this in a way that gets done  
17 but is the smartest use of the dollars we have.

18 Another question and it may also be  
19 one that takes some follow up is what will happen  
20 when--I hope that the experiences that you send  
21 the notices and people fix it, or if they don't  
22 you come out and you instruct them with the scope  
23 and they fix it, but obviously, there are going to  
24 be some times when that doesn't happen and when  
25 the agency is going to have to come in using

1  
2 emergency repair dollars and put things right. I  
3 know we've had some back and forth in the past  
4 about the status of getting those things then  
5 registered as enforceable and foreclosable liens  
6 against the building. This is specifically about  
7 this program, but of course goes to the broader  
8 issue that Council Member Williams was talking  
9 about, how we can strengthen enforcement tools to  
10 get owners to comply. And so I wondered, I don't  
11 know when DOHMH issues violations, I mean, I know  
12 on HPD violations for the most part, ERP currently  
13 gets registered, but not as a foreclosable lien  
14 and that we need Albany to make some rule  
15 adjustments so that we can do that, both to  
16 increase the likelihood people would comply  
17 because they don't want foreclosable liens on  
18 their building, but also so that if they don't  
19 over time, we have the ability to go in and  
20 exercise that lien so if people have really been  
21 so negligent that they don't take care of their  
22 buildings, the city and step in. So I don't know  
23 if you have a sense of how this would relate to  
24 those issues and I don't know whether the DOHMH  
25 fines becomes lienable, but it would be great if

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we could pay attention to this.

[Pause]

VITO MUSTACIUOLO: Thank you very much. As you do know when we do spend money through ERP, if an owner does not pay the charges after they're billed through the Department of Finance, we do place a tax lien on the property. Currently, our tax liens though are not stand-alone tax liens so they're not a trigger for a tax lien sale. There have been conversations with the Administration, with the agency, and with the Department of Finance and OMB to actually make our tax liens a stand-alone trigger for tax lien sale, which I think would give us greater enforcement power.

COUNCIL MEMBER LANDER: And how about DOHMH?

NANCY CLARK: I could say--

[Crosstalk]

NANCY CLARK: --that we've been looking at our--General Counsel's office has been looking at what parts of this program we could charge back and create liens. There are some overriding or--there are some issues around doing

1  
2 that, but we were looking at it, but I don't have  
3 a concrete answer for it.

4 COUNCIL MEMBER LANDER: Thanks for  
5 that, I think partly let's keep moving forward on  
6 the conversation. It's my understanding that  
7 making those changes would require legislation in  
8 Albany and we should work together to be asking  
9 for it so that we--I mean, I think you're right  
10 that making them eligible for a lien sale or for  
11 third-party transfer or in rem action, you'd  
12 rather not go there, but if we have people who  
13 first are allowing all these asthma triggers to  
14 develop in their buildings, then don't fix it when  
15 we ask, then don't pay the ERP lien when we go in  
16 and do the work, we need to be in a position at  
17 that point to take more aggressive action against  
18 them.

19 In the meantime, if HPD has the  
20 power to make it lienable and DOHMH doesn't, I  
21 hope we'll work hard to have them be the ones that  
22 write as many of the violations as possible, just  
23 so that we can use what enforcement tools that we  
24 have. Thank you very much.

25 CHAIRPERSON DILAN: Thank you very

1  
2 much. We were also briefly joined by Council  
3 Member Eric Ulrich of Queens, we've now been  
4 joined by Council Member Gale Brewer of Manhattan.  
5 Do any other members have questions? Okay, I'm  
6 going to jump in and just continue along the lines  
7 of where I started at the outset, and it's just  
8 questions on the budget.

9 Council Member Williams asked a  
10 question that you answered that your agency, being  
11 HPD, was actually looking at another program where  
12 the costs were possibly lower. I guess what's the  
13 difference in costs between the legislation before  
14 us and the program that maybe one or both of the  
15 agencies had envisioned?

16 VITO MUSTACIUOLO: When we  
17 originally proposed the--gave our proposal of the  
18 100 buildings, that was some time ago. And since  
19 then and, again, as in the Commissioner's  
20 testimony, in the last 18 months we have seen an  
21 \$18 million reduction in our budget, which we did  
22 not anticipate when we first discussed the  
23 proposal.

24 We had also hoped that we would  
25 assume some other savings in other programs such

1 as the Alternative Enforcement Program.

2 Unfortunately or fortunately, whichever way you  
3 look at it, we have actually spent more money in  
4 the Alternative Enforcement Program so we cannot  
5 assume a savings in that program. We believe that  
6 that money is well spent and we believe that that  
7 program continues to be a huge success.  
8

9 I think the major differences,  
10 again, between the original pilot that we had  
11 recommended and the Council proposal that we're  
12 talking about today really have to do with the  
13 number of buildings and the timeliness of the  
14 proposal. We were, again, anticipating doing a  
15 pilot during our off-heat seasons so we can use  
16 existing resources from both code enforcement as  
17 well as from our Emergency Repair Program, that we  
18 would not have to take resources away during a  
19 critical time of year--heat season. So, again,  
20 the pilot, we were suggesting to do it during the  
21 summertime.

22 With the increased number of  
23 buildings, we're also seen an increased number--or  
24 assuming an increased number of systems  
25 replacement work that would need to be done.



1  
2 Again, the purpose of this program  
3 is really not just to come in with your emergency  
4 repair work and just address the mold condition,  
5 but actually determine what the underlying cause  
6 was and address that underlying cause. So by  
7 increasing the number of buildings, obviously,  
8 that also increased the potential for us to spend  
9 more money.

10 [Pause]

11 CHAIRPERSON DILAN: Frankly, I  
12 think the amount of dollars that we're talking  
13 about, I understand that we're in a crisis but  
14 we're talking about a small amount of money so,  
15 again, I would hope that we could find ways to  
16 bring the cost of this pilot program down.

17 After the 18 months is complete, I  
18 didn't hear any stated goals as to what the  
19 agencies are looking to achieve and what action  
20 will be taken by either agency upon completion of  
21 the program.

22 NANCY CLARK: As you know, the  
23 pilot is structured in a way that there's an  
24 evaluation following an 18-month period of  
25 activity. Based on that evaluation we'd be making

1  
2 recommendations to either change the way things  
3 that we learned and what would we suggest going  
4 forward and whether or not we think the whole  
5 building approach is something that actually  
6 works, that's kind of the question before us. We  
7 think it makes sense, but we'd like to have some  
8 data under our belt in order to move forward. But  
9 I think that's what we envision a pilot for is to  
10 look at ways to proceed, looking at the best way  
11 to select, did we select the right building, were  
12 those the right criteria, and was the building-  
13 wide approach--addressing Councilman William's  
14 question about does it go faster, how long does it  
15 take compared to other types of remediation. So I  
16 think the evaluation will pave the way for us to  
17 make a recommendation going forward.

18 CHAIRPERSON DILAN: So I just want  
19 to get into a series of questions. I guess where  
20 an owner fails to respond to a notification that  
21 the owner's building has been selected to join  
22 this program or fails to properly correct  
23 violations, I guess, at that time will HPD step in  
24 and prepare a scope of work, will it issue an  
25 order to the owner to correct the violations, but

1  
2 also, as you mentioned, deal with these underlying  
3 conditions. In these properties in which a  
4 building-wide inspection is required and a scope  
5 of work is necessary, how do you expect to  
6 determine what repairs need to be made to correct  
7 related underlying conditions?

8 VITO MUSTACIUOLO: Again, we equate  
9 this really to the Alternative Enforcement Program  
10 where our technical staff and our inspectors are  
11 conducting inspections in these buildings in a  
12 comprehensive approach, they're identifying the  
13 source of where the leaks are coming from. If you  
14 look at the Alternative Enforcement Program,  
15 almost every building that we are actively  
16 involved in we are replacing roofs. We look at  
17 the history of repairs in the building that would  
18 suggest that we had repaired the roof numerous  
19 times but repairs were not necessarily what it  
20 required, it needed a full replacement. Similar  
21 to water leaks as opposed to coming in and  
22 replacing a section of the domestic water supply,  
23 we're actually doing complete re-pipes in these  
24 buildings.

25 So we're really looking at the root

1  
2 of the problem and addressing that, and we're  
3 doing it with technical staff.

4 CHAIRPERSON DILAN: Who will  
5 estimate the costs of doing the repairs and how  
6 much time will an owner be given to correct once  
7 an order is issued?

8 VITO MUSTACIUOLO: Well we do our  
9 cost estimates for scoping purposes where we put  
10 the work out for bid, we don't generally supply  
11 that information to the owners. With respect to  
12 the time allowed for an owner to correct, I  
13 believe that the owner had three months to  
14 correct, right.

15 CHAIRPERSON DILAN: I just want to  
16 shift to mold remediation a little bit. I know  
17 there can be several ways that mold could be  
18 created, but just from my perspective, I know very  
19 little about how mold is remediated. I guess, how  
20 did the Department of Mental Health develop the  
21 mold guidelines and what issues do these  
22 guidelines address?

23 NANCY CLARK: Hi, the Health  
24 Department's mold guidelines have actually been  
25 out almost 20 years. We started the program or

1  
2 looking at the issue of mold in buildings since  
3 1993. The latest version of that was issued in  
4 2008 and they've been updated to reflect our  
5 greater understanding of mold in buildings.

6           And the mold guidelines themselves  
7 are actually pretty straightforward. They give an  
8 approach, describe an approach to building owners  
9 on how to identify mold and how to trace--actually  
10 we're not that explicit, but we urge the building  
11 owner to identify the moisture problem because  
12 mold won't grow without moisture, so moisture  
13 intrusion is a big part of the picture, whether or  
14 not it's a roof leak, a plumbing leak, building  
15 envelope leak that we would expect the person who  
16 knows the building the best to identify those  
17 moisture problem.

18           Then as I said, it's pretty  
19 straightforward, it's a work practice procedure  
20 that would instructs or recommends to building  
21 workers and owners to remove the mold on surfaces  
22 that can be preserved with pretty--as again,  
23 pretty straightforward, soap and water can remove  
24 the mold, and then on hard surfaces and on porous  
25 surfaces the guidelines actually would recommend

1  
2 that those services be replaced. But in any case,  
3 during that work, we recommend that the area when  
4 large surfaces are affected, that the work be done  
5 in a way that doesn't disburse mold particles  
6 because those particles can be allergenic and  
7 triggers to some people. So that's really the  
8 gist of the guideline.

9 CHAIRPERSON DILAN: Do the  
10 guidelines address any steps that tenants can take  
11 to prevent the growth or spread of mold at all?

12 NANCY CLARK: So they're really  
13 directed at the building owner themselves, the  
14 mold guidelines are.

15 CHAIRPERSON DILAN: All right, so  
16 let me ask this then--

17 NANCY CLARK: [Interposing] I think  
18 the best thing that--I'm sorry, the thing that a  
19 tenant can do is make sure they're reporting  
20 moisture intrusions or mold problems early on to  
21 building owners to get that going.

22 CHAIRPERSON DILAN: So I want to  
23 just ask, in the 20 years that this has been out,  
24 how often has the mold guidelines been revised?

25 NANCY CLARK: Oh, I think three

1  
2 times? Yeah, three times.

3 CHAIRPERSON DILAN: Three times?

4 And have the guidelines ever been subject to  
5 review by the Department as I guess part of a  
6 structured correctional maintenance program, where  
7 their effectiveness is monitored?

8 NANCY CLARK: No, the guidelines  
9 have not been evaluated in terms of their  
10 effectiveness. The work procedures that the  
11 guidelines cover, in fact, we're not aware of any  
12 effectiveness evaluations that have been done  
13 really anywhere. So we would be looking forward  
14 to see how they do work and we're also--they're  
15 common sense so we think that that's the right  
16 approach, but they have not explicitly been  
17 evaluated.

18 CHAIRPERSON DILAN: So how does the  
19 Integrated Pest Management approach address the  
20 rodent and pest violations, and I guess, what does  
21 the proper implementation of IPM require?

22 NANCY CLARK: Thanks, IPM is an  
23 approach to controlling pests that moves us away,  
24 moves both building owners and tenants away from  
25 using pesticides. In the end, pesticides may give

1  
2 a short-term fix, but it's been shown that it's  
3 just not a way to overall reduce pest  
4 infestations. Those pests tend to get used to  
5 whatever pesticides are being used and also  
6 results in a burden of unwanted chemicals in a  
7 home environment. IPM system really looks at how  
8 can you deny pests food and water and shelter, so  
9 the basic techniques that are used are to seal  
10 cracks and holes so that mice and--and we're  
11 really talking mice and roaches on the interior  
12 environment. And again these are simple common  
13 sense measures--caulking, sealing cracks, and  
14 holes that keeps pests out, again, identifying  
15 moisture sources and correcting those and using  
16 safer pest control.

17 On the occupant side also requires  
18 that people also take measures to prevent pests  
19 taking over, keeping foods covered, keeping  
20 garbage covered, taking garbage out. Relies also  
21 on the building owner to make sure they're keeping  
22 garbage rooms clean and keeping garbage pickups  
23 and keeping it contained.

24 CHAIRPERSON DILAN: I'm going to  
25 sum up, I'm just going to say as it relates to the



1  
2 questioning around mold and those guidelines, I do  
3 think that at the end of this process, if there  
4 are some recommended steps that tenants can take  
5 to avert mold, I think that at the end of this  
6 process hopefully you could look at that and have  
7 that added to the guidelines going forward.

8           And I just want to just sum up by  
9 saying do you have any suggestions with the way  
10 the legislation is proposed to find things or  
11 things that you may believe drive up the costs, is  
12 there a way to potentially maybe drive down the  
13 cost on what it costs to abate mold or is there  
14 more cost effective ways to do the IPM, do you  
15 have any suggestions as to what really drives the  
16 costs up in this bill where you find it to be  
17 unacceptable?

18           NANCY CLARK: It's probably really  
19 a better question for Vito, but I think we think  
20 that the driving up of the costs are the number of  
21 buildings and the potential for a systems  
22 replacement, those are the most costly items on  
23 the bill. Certainly, there's a cost to us, to the  
24 agencies for staff and program support, but I  
25 think the lift is on the repairs.

1  
2 CHAIRPERSON DILAN: So [off mic]  
3 Vito, why don't you answer the question, Vito?

4 VITO MUSTACIUOLO: Right, and as  
5 Nancy said, I mean, certainly that that does  
6 impact the cost. We have been looking at some of  
7 the existing programs that we already have in  
8 place to see if we can better utilize those  
9 programs to get us one step further. Again, for  
10 instance, if the Alternative Enforcement Program,  
11 if we are already doing systems replacement work,  
12 can we do more within that program to better  
13 achieve this goal. So we're looking at a number  
14 of other options that we would like to sit with  
15 the Council and the staff to discuss as to how we  
16 could do this in a way that makes sense for the  
17 agency, makes sense for the tenants, and makes  
18 sense for the administration.

19 CHAIRPERSON DILAN: Council Member  
20 Mendez--oh, we've been joined by Council Member  
21 James, I don't know if Council Member James has  
22 any questions. All right, so I'll go Council  
23 Member Williams and close with Council Member  
24 Mendez.

25 COUNCIL MEMBER WILLIAMS: My

1  
2 question was, I was trying to just ascertain, I  
3 know money was an issue and you also gave some  
4 other kind of structure issues that you had.  
5 Which one is causing you the most to oppose it, is  
6 it the money or is it the changes that you think  
7 need to be made?

8 VITO MUSTACIUOLO: Well I think,  
9 again, the changes from the original proposal to  
10 the current proposal certainly had a fiscal  
11 impact, but even when we looked at the original  
12 proposal, again, we had suggested that some time  
13 ago, our budget situation was much different then.  
14 So going forward, we really need to kind of  
15 reevaluate any pilot program that we would be able  
16 to enter into and to see what the impact would be  
17 on the budget.

18 COUNCIL MEMBER WILLIAMS: So your  
19 biggest opposition is the money.

20 VITO MUSTACIUOLO: It's certainly a  
21 concern of ours, yes.

22 CHAIRPERSON DILAN: Council Member  
23 Mendez.

24 COUNCIL MEMBER MENDEZ: Thank you.  
25 I think I've heard the answer, but I just want to

1  
2 make sure. While the discussions on the pilot  
3 program to Introduction increased less than double  
4 from 100 to 175, again, looking at your numbers on  
5 page two, for DOHMH, the increase from 100 to 175  
6 buildings increases from 1.1 to 1.9, that's less  
7 than half, but for HPD it more than doubles from 3  
8 million to 7.5 million. Is that because you're  
9 anticipating that those buildings you will need to  
10 be doing more system repairs or is it just staff  
11 or a combination of the two?

12 VITO MUSTACIUOLO: It is absolutely  
13 a combination of the two. We do believe that we  
14 would end up doing more systems replacement work  
15 in a greater number of buildings. But certainly  
16 the staffing is a critical part of that analysis  
17 because the original proposal, again, we were  
18 looking to use existing staff during the off-  
19 season. With the recommended proposal going up to  
20 175 buildings within an 18-month period, we would  
21 actually have to staff up an entire program for 18  
22 months so we would have to bring on additional  
23 staff. The alternative would be to do less heat  
24 inspections, which is not a trade-off that we were  
25 willing to make.

1  
2 COUNCIL MEMBER MENDEZ: And this is  
3 my last question, in reference to in the past when  
4 homeowners have been advised that there are  
5 emergency violations and if they don't take care  
6 of them, the city will step in. In how many of  
7 those instances percentagewise has the city had to  
8 step in to do the work?

9 VITO MUSTACIUOLO: Are you talking  
10 specifically about mold or just in general?

11 COUNCIL MEMBER MENDEZ: In general.

12 VITO MUSTACIUOLO: Yeah--

13 COUNCIL MEMBER MENDEZ: And if you  
14 have them for mold, then for mold as well, but I  
15 want to know in general.

16 VITO MUSTACIUOLO: Yeah, for mold,  
17 through our Emergency Repair Program, we spent  
18 approximately \$500,000 doing emergency repair work  
19 in buildings where owners did not correct a Class  
20 C violation, and that was in fiscal year 2009. I  
21 do have, I don't have with me, but the percentages  
22 of owner compliance based on the issuance of a  
23 Class C violation verses where the agency has had  
24 to step in, and I will certainly make sure that we  
25 get you that information.

1  
2 COUNCIL MEMBER MENDEZ: Thank you  
3 very much, and thank you, Mr. Chair.

4 CHAIRPERSON DILAN: All right,  
5 seeing no other questions from members, I'd like  
6 to thank Mr. Mustaciuolo and Ms. Clark for  
7 appearing before the Committee. And, yeah,  
8 obviously, we look forward to further discussions  
9 on this program, and would like to one day get to  
10 its disposition so that we could have it out in  
11 the neighborhoods that we mutually represent. So  
12 I'd like to thank you for coming in today.

13 And we'll call our first panel of  
14 witnesses. [Pause] We're going to call John  
15 Whitlow, Mr. David Uranya [phonetic], and Veronica  
16 Mitafuentes [phonetic]. [Pause] That'd be the  
17 next panel, she just [off mic], she just [off  
18 mic]. [Long pause] The next panel.

19 FEMALE VOICE: Yeah.

20 CHAIRPERSON DILAN: And then this  
21 panel will be followed by Michelle de la Uz,  
22 Victor Rosario, Adriana Mendoza, and, I don't know  
23 how to say this, but Maray Cochiatay [phonetic],  
24 and correct me on that pronunciation, I apologize  
25 for that, that's the next panel.

1  
2 Why don't we begin, gentlemen, with  
3 ladies first, I'm sure that you guys are  
4 upstanding gentlemen, you don't mind if she goes  
5 first. Ma'am, if you'd like to begin, just  
6 introduce yourself for the record.

7 [Pause]

8 [Foreign language]

9 [Pause]

10 [Off mic]

11 JOHN WHITLOW: My name is John  
12 Whitlow and I'm a supervising attorney at Make the  
13 Road New York, a nonprofit organization based in  
14 the communities of Bushwick, Brooklyn, Jackson  
15 Heights, Queens, and Port Richmond, Staten Island.  
16 We work to promote economic justice, equity, and  
17 opportunity for all New Yorkers. Our organization  
18 consists of over 7,000 members, most of whom are  
19 immigrants and many of whom live in substandard  
20 housing. I submit this testimony on behalf of  
21 Make the Road New York and thank the Committee for  
22 the opportunity to participate in this hearing,  
23 and I'd like to particularly thank Council Member  
24 Mendez and Dilan for their support.

25 Make the Road New York supports the

1  
2 proposed pilot program which identifies 175  
3 buildings around the city that have the highest  
4 numbers of asthma triggering Housing Code  
5 violations and seeks the remediation through a  
6 combination of enforcement mechanisms. Make the  
7 Road has been working on this issue for some time.  
8 Many of our members principally in Bushwick suffer  
9 from major environmental health problems,  
10 including asthma.

11 According to the 2007 Department of  
12 Health and Mental Hygiene Community Health  
13 Profile, Bushwick and Williamsburg have a higher  
14 combined rate of asthma in children and adults  
15 than the Bronx or Harlem; both Bushwick and  
16 Williamsburg and adult asthma rate of 9%, higher  
17 than the New York City and Brooklyn average of 5%.

18 A joint study conducted by Make the  
19 Road New York and Wyckoff Medical Center published  
20 in 2006 found a strong correlation between  
21 incidents of asthma and poor housing conditions.  
22 More specifically, the study found that 69% of  
23 asthmatics had cockroaches in their homes, 47% had  
24 rodent infestations, and 30% had mold conditions.

25 In the course of our work with



1  
2 tenants suffering from asthma, Make the Road New  
3 York has come to the conclusion that Housing Code  
4 enforcement system that does not recognize the  
5 link between asthma and housing conditions leaves  
6 asthmatic New Yorkers stuck in homes where they  
7 are literally unable to breathe.

8           As a housing attorney representing  
9 tenants struggling to get much-needed repairs in  
10 their apartments, I have found that even when we  
11 are able to force landlords to remediate  
12 conditions that lead to asthma, usually through  
13 protracted Housing Court litigation, these  
14 conditions often recur. This is especially true  
15 with respect to violations relating to mold, which  
16 are often dealt with by repairing the surface  
17 condition without actually addressing the  
18 underlying cause of the problem.

19           In short, the current enforcement  
20 system which overlooks the correlation between  
21 housing violations and environmental health  
22 problems and does not effectively get at  
23 underlying structural housing conditions fails to  
24 ensure that tenants are able to live in homes free  
25 of the conditions that cause asthma.

1  
2 Through our work combating asthma,  
3 Make the Road has advocated for a more holistic  
4 approach to eliminating asthma triggering  
5 conditions in our members and all New Yorkers'  
6 homes. We have emphasized the connection between  
7 housing conditions, such as mold, vermin, and  
8 rodent infestation, and asthma, and have advocated  
9 for more stringent inspection remediation methods  
10 with respect to these violations, with a focus on  
11 addressing in an efficient, timely manner  
12 underlying structural housing conditions that lead  
13 to the recurrence of asthma triggering violations.  
14 We have also emphasized the importance of an open,  
15 transparent process informed by tenant and  
16 community input.

17 For the following reasons the  
18 proposed pilot program is a positive step toward  
19 improving the current enforcement system and  
20 moving toward a system which eliminates asthma  
21 triggering housing conditions. First, the program  
22 explicitly recognizes the correlation between  
23 asthma and certain housing conditions and  
24 implicitly recognizes the unique and sometimes  
25 life-threatening situation confronted by

1  
2 asthmatics living in substandard housing.

3           Second, the program lays out a  
4 framework in which HPD and DOH will work  
5 collaboratively to ensure that asthma triggering  
6 violations are reduced.

7           Third, the program requires that  
8 HPD monitor and evaluate participating buildings  
9 to ensure continued compliance.

10           Fourth, the program explicitly  
11 states that where landlords do not timely correct  
12 the requisite percentage of violations, the city  
13 will perform the necessary work with all amounts  
14 for expenses constituting a lien against the  
15 property.

16           And fifth, after 24 months, HPD and  
17 DOH will report to the Council on the  
18 effectiveness of the program, including an  
19 evaluation of best practices for remediating  
20 asthma triggering violations.

21           In conclusion, for all these  
22 reasons, Make the Road New York urges the  
23 Committee to approve the proposed pilot program  
24 and to support the program for passage in the City  
25 Council. We are hopeful that the Council will

1  
2 share our committment to developing and  
3 implementing an enforcement system that will  
4 eliminate asthma triggering housing conditions so  
5 that all New Yorkers are assured of a healthier  
6 future. Thank you.

7 DAVID URANYA: Good morning, thank  
8 you for allowing me the opportunity to speak  
9 today. My name is David Uranya, a legal intern  
10 speaking on behalf of Harvey Epstein, Project  
11 Director of the Community Development Project at  
12 the Urban Justice Center.

13 The Urban Justice Center serves New  
14 York City's most vulnerable residents through a  
15 combination of direct legal service, systemic  
16 advocacy, community education, and political  
17 organizing. The Community Development Project of  
18 the Urban Justice Center formed to provide legal,  
19 technical, and research and policy assistance to  
20 grassroots community groups engaged in a wide  
21 range of community development efforts throughout  
22 New York City. Our work is informed by the belief  
23 that real and lasting change--

24 CHAIRPERSON DILAN: [Interposing]  
25 Excuse me, Mr. Uranya, can you just pull the mic a

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little bit closer?

DAVID URANYA: Oh, sorry.

CHAIRPERSON DILAN: [Off mic].

DAVID URANYA: Our work is informed by the belief that real and lasting change in low income urban neighborhoods is often rooted in the empowerment of grassroots community institutions. I'm here today to urge you to support proposed legislation Intro number 224, the passage of which would be a first step in the right direction in creating healthy homes for hundreds of thousands of New York City tenants whose health is jeopardized by indoor molds and pests.

Asthma is widespread among New York City residents. In 2003, about 700,000 adults and 320,000 children in New York City had been diagnosed with asthma at some point in their lives. Also, asthma-related hospitalization rates for New Yorkers outpaced those of other New York State residents and even the rest of the United States.

Low income and minority New York City tenants are disproportionately affected by asthma. This is due in part to higher levels of

1  
2 exposure to indoor environmental allergens which  
3 trigger asthma symptoms of which mold and pests  
4 are among the most prevalent. The low-income and  
5 minority tenants experience greater exposure to  
6 indoor asthma triggers because of poor quality  
7 housing and a lack of regulations and enforcement  
8 of existing regulations which could reduce indoor  
9 asthma allergens.

10 In 2008, this Committee considered  
11 Intro number 770, a bill which aimed to reduce the  
12 dangers posed by indoor asthma triggers in  
13 residential dwellings. Intro number 770 called  
14 for aggressive measures towards the risks posed to  
15 tenants who are susceptible to indoor asthma  
16 allergens and is comprehensive and providing that  
17 indoor allergen-related problems are resolved  
18 promptly. However, as it stands now New York City  
19 laws and rules do not require building owners to  
20 eliminate indoor mold and, most importantly, the  
21 underlying conditions which create the conditions  
22 for molds and pests. A comprehensive approach is  
23 necessary for effectively reducing the dangers  
24 posed to New Yorkers who suffer the ill effects of  
25 indoor asthma allergens. The passage of Intro

1  
2 number 224 is a first step in dealing with a  
3 serious problem.

4 I support the bill because it  
5 focuses attention on the underlying causes of the  
6 asthma problem in New York City and will allow the  
7 city to evaluate the effectiveness of certain  
8 approaches to eliminating indoor mold and pest  
9 infestations. The bill contains sections which  
10 identify important areas where substantial  
11 improvements can be made for tenants with asthma.

12 While I support the passage of  
13 Intro number 224, I also support the following  
14 recommendations to improve the bill. First,  
15 currently Intro number 224 makes reference to the  
16 guidelines on assessment and remediation of fungi  
17 in indoor environments that was issued by the DOH  
18 in 2008. In referencing the guidelines, Intro  
19 number 224 define substantial compliance to  
20 require that a building owner correct mold in city  
21 housing, Building and Health Code violations in  
22 accordance to the guidelines. However, with the  
23 exception of the work practices recommendations  
24 contained in the guidelines, the DOH's mold  
25 remediation guidelines should be adopted as

1  
2 enforceable rules which would apply not only to  
3 the buildings which participate in the remediation  
4 pilot program, but to all city building owners.

5 Doing so would require all building owners to  
6 implement the remediation methods contained in the  
7 guidelines, which in turn would prevent building  
8 owners from applying half measures which  
9 inadequately address actual mold and pest problems  
10 and the underlying conditions which allow asthma  
11 triggers to persist and grow in severity.

12 Secondly, the definition of  
13 substantial compliance contained in subdivisions F  
14 and K in Intro number 224 do not reflect the  
15 urgency which mold and pest problems pose to  
16 tenants with asthma. [Pause] Substantially  
17 comply with the Code, building owners should  
18 instead be required to have corrected all  
19 immediately hazardous violations directly related  
20 to mold, 90% of all their open and hazardous  
21 violations related to the accumulation of water  
22 and rubbish, and to have implemented an Integrated  
23 Pest Management program approved by the DOH to  
24 address pest and rodent infestations at the time  
25 of reinspection by the DOH.



1  
2 Thirdly, presently, violations  
3 issued by the DOH are generally not publicly  
4 accessible. The readily availability of  
5 information concerning the particular violations  
6 that DOH issues which are directly related to  
7 indoor mold and pest problems and underlying  
8 conditions which enable those problems to persist  
9 is of utmost importance to susceptible tenants  
10 with asthma and other respiratory disorders. With  
11 such information these tenants and potential  
12 future tenants can make informed decisions about  
13 where to live and may also be better able to  
14 assist the DOH in enforcing its regulations by  
15 enabling tenants to report a building owner's  
16 failure to comply with code requirements.

17 In subdivision G, part one, the  
18 bill requires that DOH provide information to  
19 building owners on implementation of prevention  
20 and pest management measures. Rather than  
21 allowing owners to intermittently spray toxic  
22 pesticides which only delay recurring  
23 infestations, requiring building owners to use IPM  
24 measures will provide a more lasting and less  
25 toxic solution to indoor pest problems. Because

1  
2 of its effectiveness, a requirement to use IPM  
3 should extend to all private building owners in  
4 New York City.

5 Finally, making permanent  
6 regulations and enforcement of regulations  
7 designed to specifically reduce indoor mold and  
8 pest, and other indoor asthma allergens will lead  
9 to the reduction of asthma triggers in homes,  
10 which in turn will reduce the asthma-related  
11 hospitalization rates of New York City.

12 Furthermore, enforcing regulations  
13 that require landlords to fix any underlying  
14 conditions which create mold and pest problems is  
15 good housing policy because the presence of mold  
16 and pests is symptomatic of structural  
17 deficiencies. Requiring building owners to  
18 eliminate and prevent future recurrences of mold  
19 and pest problems by fixing underlying conditions  
20 will result in healthier homes with less  
21 structural defects.

22 These recommendations will lead to  
23 long-term benefits for New Yorkers with asthma and  
24 other respiratory disorders who are susceptible to  
25 the adverse effects of indoor allergens, to the

1  
2 public health of New York City, and to the quality  
3 of housing in the city. Thank you for introducing  
4 this bill and for giving me the opportunity to  
5 testify on this important issue.

6 CHAIRPERSON DILAN: Thank you, and  
7 thank you all. Council Member Mendez, any  
8 questions?

9 COUNCIL MEMBER MENDEZ: Yes, thank  
10 you, Mr. Chair. First, for the advocates, on your  
11 experience, how many units in buildings have you  
12 been dealing with and how many units within the  
13 building have had the issue of mold and vermin?  
14 I'm assuming vermin is more building widespread,  
15 and do you see it more in bigger buildings or  
16 smaller buildings?

17 JOHN WHITLOW: I'm a housing  
18 attorney, I think most of the people that I  
19 represent in Housing Court have significant  
20 problems dealing with vermin and roach  
21 infestations in their apartment. Probably a  
22 lesser number of people, a smaller number of  
23 people have problems with mold, although I think  
24 it is something that I see a lot. I don't have  
25 hard numbers, but just sort of anecdotally, it's a

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very common--these are very common problems.

In the context of sort of trying to get these problems remediated through a normal Housing Court proceeding, with the laws, working with the laws that are on the books now, it's very difficult. Generally, landlords will, as other people have testified and people know from experience, will clean the surface violation up, paint over the surface violation, and then it's almost a guarantee that the problem recurs, possibly after the case is over and you're no longer in court.

So I think this is something that, again, is very common and I think those of us who are tenants or who have represented tenants in Housing Court probably have the same experience dealing with the issue.

COUNCIL MEMBER MENDEZ: And of those individuals that you're representing, how many have told you that this is a building-wide issue, that other people may have mold, have vermin, and/or have family members who are suffering from asthma as a result of the conditions in their apartment or in the building?

1  
2 JOHN WHITLOW: In my experience,  
3 the vast majority of my clients have indicated to  
4 me that other people in the building--that when  
5 they have conditions in their apartment, generally  
6 other people in the building have very similar, if  
7 not the same, conditions. With respect to the  
8 question about asthma, again, I don't have a hard  
9 figure, but it's certainly, especially in  
10 Bushwick, which is where most of my clients live,  
11 it's certainly a common problem faced by them.

12 COUNCIL MEMBER MENDEZ: Thank you.

13 [Foreign language]

14 COUNCIL MEMBER MENDEZ: Just for  
15 the--I'll summarize real quickly, she gave  
16 testimony about how her son has asthma and then I  
17 asked some follow up questions about other  
18 children. Her middle child, who is 14, used to  
19 have asthma and as she's gotten older, doesn't  
20 have asthma anymore, she believes it's because her  
21 son who's younger is always on the floor and is  
22 picking up some of the debris from the vermin and  
23 that that's aggravating his condition. That when  
24 the exterminator is sent to the building, her  
25 son's condition gets better, but with time, the

1  
2 vermin come back because they don't either  
3 exterminate the entire building and if for a while  
4 she doesn't have vermin, then they start to enter  
5 back into her apartment and then the conditions  
6 for her son gets aggravated again. So that's the  
7 summary. [Foreign language] And I want to thank  
8 this panel for their testimony.

9 CHAIRPERSON DILAN: Council Member  
10 Brewer.

11 COUNCIL MEMBER BREWER: Thank you  
12 very much. This Council a while ago passed, as  
13 you know, the concept for some buildings of a roof  
14 to cellar inspections. So are you able to get  
15 those for the buildings that have building-wide  
16 conditions or are those buildings that you're  
17 working in not bad enough to get them? In other  
18 words, that is supposed to be for the buildings  
19 with the most C violations, etc.

20 JOHN WHITLOW: Were you referring  
21 specifically to the Safe Housing Act?

22 COUNCIL MEMBER BREWER: Yes.

23 JOHN WHITLOW: At Make the Road  
24 we've had a pretty positive experience with the  
25 buildings and primarily in Bushwick that have been

1  
2 part of the Safe Housing Act, yes.

3 COUNCIL MEMBER BREWER: So are some  
4 of the buildings that would include vermin and  
5 mold, if they have the roof to cellar Safe Housing  
6 Act inspection, does that put some pressure on the  
7 owner to also clean up the vermin? Or in other  
8 words, should this Act include some of the vermin  
9 and mold conditions in addition to the C  
10 violations, I guess that's what I'm saying.

11 JOHN WHITLOW: Should this  
12 particular Act include...

13 COUNCIL MEMBER BREWER: We're  
14 trying to figure out how to get rid of these  
15 building-wide problems--

16 JOHN WHITLOW: Yes.

17 COUNCIL MEMBER BREWER: --  
18 addressed, okay? So there is an Act, Safe Housing  
19 Act, you go from the roof to the cellar, that's  
20 the way it works, and so my question is, is there  
21 a correlation between the buildings that you're  
22 looking at that have vermin and the ones that  
23 you're looking at that have the roof to cellar  
24 inspection?

25 JOHN WHITLOW: I think there's

1  
2 certainly a great deal of overlap. Generally when  
3 a building is in disrepair to the extent that it's  
4 been placed in a safe housing--in the Alternative  
5 Enforcement Program, it's safe to say that it has  
6 rat, rodent infestation.

7 COUNCIL MEMBER BREWER: Right, so  
8 are you finding that after the roof to cellar safe  
9 Housing Act inspections, is there any improvement  
10 on the rodent situation? I'm sure there is on  
11 some of the other violations, but is there any  
12 improvement on the rodent situation and mold?

13 JOHN WHITLOW: In general, yes, I  
14 mean, I think it depends on the building and it  
15 depends obviously on the particular landlord. I  
16 think we've seen some landlords actually spring  
17 into action, often later than we would like, and  
18 make significant repairs. We've also seen the  
19 city have to step in and do the--

20 [Crosstalk]

21 JOHN WHITLOW: --repairs for the  
22 landlord. But, again, our experience with the  
23 program has been that over time many of the  
24 repairs do get corrected and that does include the  
25 rodent infestation.



1  
2 COUNCIL MEMBER BREWER: And the  
3 other question is what I've done on the West side  
4 if we have mold situations in particular is we  
5 call the insurance company for the owner. Is that  
6 something that you've done or not in mold  
7 situations?

8 JOHN WHITLOW: I haven't done that  
9 personally, I mean, we have worked also with  
10 lenders to try to enforce the duty of good repair  
11 clause and have had, I think, successful--or I  
12 don't want to overstate it, I've had mixed  
13 results, some success going that route. I think  
14 in general it's important to kind of think outside  
15 the bounds of what happens in the context of a  
16 Housing Court case because, unfortunately--

17 COUNCIL MEMBER BREWER:  
18 [Interposing] I'm familiar with it.

19 JOHN WHITLOW: Yeah.

20 COUNCIL MEMBER BREWER: But I'm  
21 just saying the insurance companies are another  
22 place to go, you'd be surprised. Thank you.

23 JOHN WHITLOW: Thank you.

24 CHAIRPERSON DILAN: Council Member  
25 Lander.

1  
2 COUNCIL MEMBER LANDER: I just want  
3 to thank the panel for their work on this issue.  
4 I mean, what Make the Road and the Urban Justice  
5 Center--and I'm going to have to leave in a  
6 minute--but Fifth Avenue Committee as well have  
7 done to raise and clarify for this Council the  
8 issue of mold and pest management and how it  
9 relates to asthma in low income neighborhoods  
10 around the city is great. And I also want to  
11 thank you both for putting forward a sort of big  
12 picture idea of what it would really look like to  
13 eliminate this problem at a broader level, but  
14 also for working very constructively with HPD and  
15 DOHMH and the Council to put the pilot together so  
16 we can have some real good data on what works  
17 before we come around again.

18 I was struck by the gap between the  
19 number of violations that HPD talked about writing  
20 on mold and pests and the scale of this program.  
21 So this is a great opportunity to get started to  
22 see what works and then think about how we really  
23 scale it up to solve the problem on the bigger  
24 level in the years to come. So thank you for your  
25 time and for your support of this program.

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[Off mic]

CHAIRPERSON DILAN: Thank you, Council Member Lander. Seeing no other questions for this panel, I'd like to thank you for your time and your testimony. Thank you all very much.

JOHN WHITLOW: Thank you.

CHAIRPERSON DILAN: The final panel will consist of four: Michelle de la Uz, Victor Rosario, Adriana Mendoza, and--are they all here?

COUNCIL MEMBER MENDEZ: We need to add another--

CHAIRPERSON DILAN: If you're here, come forward.

[Off mic]

CHAIRPERSON DILAN: Oh, I know, yeah, I know.

[Off mic]

FEMALE VOICE: So there are five.

COUNCIL MEMBER MENDEZ: Yeah.

FEMALE VOICE: Yeah.

[Off mic]

FEMALE VOICE 1: I'm going to translate for [off mic], sorry.

[Off mic]

COUNCIL MEMBER MENDEZ: Yeah, yeah, unless we just put those five here.

FEMALE VOICE: No, no, no, no--

[Crosstalk]

MICHELLE DE LA UZ: [Interposing]  
Want us to jump in?

CHAIRPERSON DILAN: Yeah, go ahead, Michelle, go ahead--

[Crosstalk]

MICHELLE DE LA UZ: Council Member Dilan and Members of the Housing Committee, and especially Council Member Mendez for her support, thank you very much for holding this hearing today on Intro 224. My name is Michelle de la Uz, and I'm the Executive Director of the Fifth Avenue Committee. Fifth Avenue Committee is a 32-year-old nonprofit social justice organization that, among many of the things that we do, we organize residents and workers around their rights and we also build and manage affordable housing. So when I speak to you today, I'm speaking to you both as an advocate and as a landlord. And I'm speaking in support in both ways.

Just a couple statistics which I

1  
2 think are important and it really I think speaks  
3 to who you see in front of you here today  
4 testifying in terms of folks that are directly  
5 impacted by this bill.

6 In New York City, low-income  
7 Latinos are more likely to be living with asthma  
8 and the majority of those suffering asthma in our  
9 city are children. The other piece is that low-  
10 income Latinos are more likely to suffer pest  
11 infestations in their homes. All of this  
12 information comes from a report issued by the New  
13 York City Department of Health and Mental Hygiene  
14 from 2005 and 2007.

15 Further studies have found that New  
16 Yorkers living with roach and mice infestations in  
17 their homes can be twice as likely to be living  
18 with asthma.

19 That's why we're here today, the  
20 issue of asthma and poor housing conditions is not  
21 only a housing policy issue and a public health  
22 issue, it's an issue of equity and the fact that  
23 we have hundreds of thousands of New Yorkers  
24 living with poor housing conditions and poor  
25 health conditions and are being disproportionately

1  
2 impacted because of class, because of race, and  
3 this is something that this bill seeks to address.

4 Fifth Avenue Committee assists over  
5 200 folks a year who face poor housing conditions,  
6 including poor heat, lack of heat and hot water,  
7 roach and mice infestations and mold. And we've  
8 been long aware of what the scientific studies  
9 confirm, which is that poor housing conditions,  
10 specifically mice and roach infestations, can make  
11 asthmatic people very sick.

12 Our housing advocates, including  
13 Aura Mejia [phonetic] who is here today, have  
14 handled hundreds of cases of asthmatic families  
15 trying to get these conditions addressed by  
16 mediating with the landlords, calling 3-1-1,  
17 organizing tenant associations, and ultimately  
18 going to Housing Court. In many of these cases,  
19 often when there's asthmatic children in the  
20 household, we've observed that a medical doctor  
21 will actually write on a prescription pad to the  
22 landlord, dear landlord, as if the landlord were a  
23 pharmacist, child suffers from allergic asthma,  
24 severely allergic to roach and rodents, please  
25 remove allergens. There's no enforcement

1  
2 whatsoever when a doctor writes such a  
3 prescription. And it's extremely challenging for  
4 asthmatic tenants to make their landlords comply  
5 with this prescription for an asthma-free home.

6 In our experience at the Fifth  
7 Avenue Committee, anyone who has ever tried to get  
8 results by calling 3-1-1 or going to Housing  
9 Court, it can take months or even years to get the  
10 conditions that are underlying and causing the  
11 asthmatic condition.

12 What Intro 224 does is that it  
13 focuses on targeted enforcement, and this pilot  
14 program brings together two critical agencies, HPD  
15 and the Department of Health, who can work  
16 together to solve this problem. And we believe,  
17 and I think this was actually getting to the  
18 question that Council Member Brewer was asking,  
19 that we can use the existing HPD neighborhood  
20 preservation consultant contracts to help target  
21 the buildings that need to be targeted, because  
22 many of us already, not only are doing the  
23 basement to roof inspections, but we're also  
24 working with folks in Housing Court. We know  
25 where these buildings are, we know where the--this

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2 is just a pilot program and, as Council Member  
3 Lander said, there's absolutely a need to go to  
4 scale, but I just want to underscore a couple of  
5 things that were said by the previous panel and  
6 that is a couple pieces that could be inserted to  
7 improve what is already there, and that's specific  
8 to mold remediation and then Integrated Pest  
9 Management system.

10 So with mold remediation, when mold  
11 violations are found in the targeted buildings,  
12 the program should require all owners to comply  
13 with the Department of Health's mold remediation  
14 guidelines, and if the owner fails to comply, the  
15 city should complete the work in compliance with  
16 the same guidelines and charge the landlord for  
17 the cost of repairs.

18 The same is true for Integrated  
19 Pest Management. When pest violations are found  
20 in targeted buildings, the program should require  
21 all owners to use IPM methods when dealing with  
22 pests, and if the owner fails to comply, the city  
23 should complete the work in compliance with those  
24 IPM standards and then charge the landlord.

25 Obviously, these are things that



1  
2 would produce compliance and overall improve the  
3 health conditions for folks in the buildings.

4 Overall, the program discussed  
5 today is an important first step in making sure  
6 that those families and communities that are  
7 disproportionately impacted by the intersection of  
8 poor housing conditions and poor health conditions  
9 can get a fighting chance to live in an asthma-  
10 free home. And Fifth Avenue Committee asks this  
11 Committee and the full Council to support the  
12 Introduction, and we appreciate you having the  
13 hearing today.

14 ADRIANA MENDOZA: Hello, I want to  
15 thank you for having us here today, and my name is  
16 Adriana Mendoza. And also I'm somebody directly  
17 impacted by the asthma--the connection between  
18 asthma--having asthma as somebody who has asthma  
19 and allergies and poor housing conditions.

20 I live in Sunset Park, Brooklyn,  
21 and I moved in, I'm living in a basement right now  
22 where I moved in about 10 years ago, and after two  
23 years living in there I remember going to the  
24 doctor and my doctor asking us where we live and  
25 after we told him that it was a basement, he told

1  
2 us that if we had roaches or mold or mice and, of  
3 course, we have all of that and they said that  
4 probably the reason why I was always visiting the  
5 doctor was because I had asthma and he said that  
6 we needed to ask our landlord to remove anything  
7 triggering my asthma and allergies.

8           And we did tell the landlord and we  
9 weren't very informed yet, so we didn't really  
10 push the landlord, we didn't really see the  
11 connection between poor housing conditions and  
12 poor health conditions. And it wasn't until we  
13 realized that my asthma, which I didn't know I had  
14 asthma, was getting worse, and when my little  
15 cousin was born in 2000, when she turned three,  
16 she began with bronchitis and it turned into  
17 asthma. And when we went to the doctor again,  
18 they gave me and my cousin a referral to go to a  
19 allergy specialist and she told us that the reason  
20 why we had--me and my cousin both had allergies it  
21 was because it was being triggered by asthma and  
22 we both had asthma. And it took us about five  
23 years for me and my cousin to know that we both  
24 had asthma and allergies. And the allergy  
25 specialist gave us a note also, like Michelle had

1  
2 said earlier, she gave us a note, one for me and  
3 one for my cousin, saying that the landlord needed  
4 to make repairs, she said especially the mold and  
5 the vermin in the household to take care of that  
6 because that was what was triggering our asthma  
7 and why the reason for our constant visits to the  
8 doctor.

9 I didn't suffer that much of  
10 asthma, but my cousin, because she was born in the  
11 basement, and of course, you know baby, she's  
12 crawling on the floor and she had more contact  
13 with any dirt on the floor so that's why her  
14 asthma was more like high-risk and she even had  
15 lead poisoning also.

16 And I think when they found out  
17 that she had a level 8 of lead poisoning, they  
18 quickly went to repair and we thought--at least I  
19 think that the same way that they react to lead  
20 poisoning they should also react to when we have  
21 asthma or allergy and we have poor housing  
22 conditions.

23 So I just want to ask for the  
24 support for this pilot program, especially because  
25 it's mostly low income or even Latino families

1  
2 being more impacted by the poor housing  
3 conditions.

4 VICTOR ROSARIO: Good morning,  
5 Council Members and Members of the Committee, my  
6 name is Victor Rosario and I am a member of Make  
7 the Road New York.

8 I have lived in New York City since  
9 I was five years old. I've known about asthma my  
10 whole life because my mother had asthma, she was  
11 always suffering from asthma for as long as I can  
12 remember. Although I didn't understand it when I  
13 was a child, I would often see her using a  
14 bronchodilator and wheezing, sometimes a doctor  
15 would come to the house. My sister Victoria also  
16 had asthma and asthma has been part of my life for  
17 a very long time, that's why I decided to study  
18 science and biology.

19 When I got married, I had two boys,  
20 both of my boys had asthma. I can't tell you how  
21 many times I was in the hospital up to 2 or 3  
22 o'clock in the morning because of their asthma.

23 Later I got divorced and remarried,  
24 my second wife had asthma also. It wasn't really  
25 obvious because she always took her medicine on

1  
2 time. We had to walk up three flights of stairs  
3 because we lived in a three-story walk up. One  
4 day she had an asthma attack as she was walking  
5 into the apartment and she collapsed and died. I  
6 wasn't there at the time or else I could have  
7 saved her. Her name was Priscilla, she was in her  
8 40s when she died.

9 My mother died from a stroke, which  
10 might have been a result of the asthma medication  
11 she was taking. I'm a biologist, so it wasn't  
12 difficult for me to research the asthma  
13 medication. There are two classes of  
14 bronchodilators, one includes Theophylline and  
15 beta agonists. These drugs can cause depression,  
16 insomnia, cardiovascular disease, and stroke.

17 The second class of bronchodilators  
18 include albuterol and terbutaline and can cause  
19 muscle weakness, muscle spasm, postural  
20 hypotension, irregular heartbeat, poor reflexes,  
21 continuous thirst, mental confusion, and nervous  
22 mental disorders.

23 In terms of the number of  
24 prescriptions written, these class of drugs rank  
25 fourth with over 82,475,000 prescriptions written.

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2 In terms of money, it's the sixth largest dollar  
3 volume category in the United States and accounts  
4 for more than \$2.64 billion in sales. In other  
5 words, these medications do more harm than good.  
6 Giving people medications is not the solution, the  
7 solution is to get rid of whatever triggers the  
8 asthma attack, the solution is fixing the houses.

9 I have lived in Bushwick since I  
10 got out of the military as a young man. I've seen  
11 a lot of people with asthma problems in my  
12 community. There are a lot of old buildings in  
13 Bushwick, many of the buildings are at least 100  
14 years old. They're full of roaches, rats, and  
15 mice, there are spaces between the walls and the  
16 floor where the rats come in and out. There are  
17 rat droppings everywhere. If one complains, the  
18 owner just paints over the problem as if that's  
19 going to fix it. It doesn't help to try to move  
20 into a different apartment because almost all the  
21 other places are just as bad or worse.

22 By addressing the real causes of  
23 the problem we could save billions of dollars in  
24 emergency rooms visits, children wouldn't miss  
25 school as often, work productivity would go up.

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2 If you want to save money and help the health of  
3 children and families in Brooklyn and all of New  
4 York, please support this pilot program and get  
5 rid of the asthma triggers in the 175 worst  
6 buildings of New York. This pilot program is a  
7 good start, but it's just a small step to solving  
8 a big problem. With the amount of prescriptions  
9 written and the amount of money spent on just one  
10 particular healthcare issue, it becomes clear that  
11 this is not a small problem, it's a pandemic and  
12 it affects all of us. Thank you for your time and  
13 your support.

14 [Foreign language]

15 FEMALE VOICE 2: So she said my  
16 name is Marliana Cuchay [phonetic] and I'm going  
17 to read Luisa Mahea's testimony because Luisa  
18 Mahea was not able to come today, she was who  
19 originally had signed up. So Luisa's testimony  
20 was, my name is Luisa Mahea--

21 CHAIRPERSON DILAN: [Interposing]  
22 Well I want you to stop--

23 FEMALE VOICE 2: I'm sorry, yeah.

24 CHAIRPERSON DILAN: --and start by  
25 translating her testimony which was the reason

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that you gave for coming up.

FEMALE VOICE 2: Marliana explained--I'm saying word for word what she said, she said my name is [off mic] Marliana--

CHAIRPERSON DILAN: All right.

FEMALE VOICE 2: --I'm going to read Luisa Mahea's testimony.

CHAIRPERSON DILAN: Okay, got it. So she's testifying on behalf--

FEMALE VOICE 2: [Interposing] Yes, this Marliana.

CHAIRPERSON DILAN: Okay, got it.

FEMALE VOICE 2: She said I'm going to read--

CHAIRPERSON DILAN: That's what my confusion was--

FEMALE VOICE 2: Yes, yeah, I'm speaking word for word--

CHAIRPERSON DILAN: --sorry, so you can continue.

FEMALE VOICE 2: --Marliana said I'm going to read Luisa's testimony because--

[Crosstalk]

FEMALE VOICE 2: --Louisa was not



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able to come today.

FEMALE VOICE 3: Okay.

FEMALE VOICE 2: So then this was her reading Luisa's testimony, so now I'm reading Luisa's testimony in English, which is what Marliana read in Spanish.

Good morning, my name is Luisa Mahea, I'm a member of Make the Road New York, I live at 1406 Putnam Avenue, Apt. 3L in Brooklyn.

Several of my family members, and I have severe asthma, I've had to go to the emergency room many times because of asthma attacks. I have to use my inhaler in order to breathe and I have to take medicine to stay alive. I have lived in the same apartment for 20 years, my daughter, my son, and my grandson all grew up here and that's why they all have asthma. The terrible conditions in our building badly affect our asthma. There's a long history of open violations in my building, there's a lot of mold and mice and cockroaches throughout the apartment. Asthma is a serious problem in our community in Bushwick. The rates of asthma are four times higher than the citywide average. The

1  
2 main reason is because landlords don't fix the  
3 apartment buildings, there are many other tenants  
4 living in similar conditions in Bushwick and other  
5 areas of New York.

6 We're asking the City Council to  
7 pass this pilot program. This proposed law would  
8 help to eradicate the most common asthma triggers  
9 in some of the worst apartment buildings, like  
10 cockroaches, mice, and mold. We need this program  
11 so that our children and our grandchildren can  
12 live better, healthier lives. Thank you.

13 And then Marliana added so this is  
14 all--she said all together, but then Marliana  
15 said, I, speaking for myself, just want to add  
16 that I have been working with Make the Road for a  
17 long time, I've seen with my own eyes many mothers  
18 who have had to rush off to school to pick up  
19 their kids because the school calls them and says  
20 they're having an asthma attack. So I can tell  
21 you from my experience with Make the Road that  
22 this is a very, very common problem. I've seen  
23 again and again mothers missing work, having to  
24 pick up their kids from school because of asthma.  
25 Thank you very much.

2 CHAIRPERSON DILAN: Thank you,  
3 thank you all, sorry for the confusion at the  
4 offset. Council Member Mendez, you want to lead  
5 off?

6 COUNCIL MEMBER MENDEZ: No, I don't  
7 have any questions. I want to thank everyone on  
8 this panel for their testimony. Actually, I do  
9 have a question.

10 CHAIRPERSON DILAN: No, you said  
11 no. No, go ahead, I'm kidding.

12 COUNCIL MEMBER MENDEZ: Mr. Robles,  
13 is it, right?

14 CHAIRPERSON DILAN: Rosario.

15 VICTOR ROSARIO: Rosario.

16 [Crosstalk]

17 COUNCIL MEMBER MENDEZ: Rosario,  
18 I'm sorry. Mr. Rosario, so you had a lot of  
19 different experiences with asthma, you have lived  
20 in different buildings within the Bushwick  
21 community or have you lived in the same building?

22 VICTOR ROSARIO: No, in different  
23 buildings, yes.

24 COUNCIL MEMBER MENDEZ: But always  
25 in the Bushwick community.

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VICTOR ROSARIO: Mostly, yes.

COUNCIL MEMBER MENDEZ: Yes. And were they bigger buildings, like six apartments or more, or less than six?

VICTOR ROSARIO: They were usually six-family apartments.

COUNCIL MEMBER MENDEZ: And in all these buildings there were different vermin--

VICTOR ROSARIO: [Interposing] There were always problems in the apartments, the landlord never lived in them, in the buildings.

COUNCIL MEMBER MENDEZ: Thank you very much.

VICTOR ROSARIO: Welcome.

CHAIRPERSON DILAN: All right, I'd like to thank the panel for its time and testimony and thank them for coming here today. And again, I want to apologize for my confusion. Thank you all.

FEMALE VOICE: Thank you.

VICTOR ROSARIO: Thank you, Mr.--

[Crosstalk]

CHAIRPERSON DILAN: Seeing no one else signed up to testify, on this item, Intro 224

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is now laid aside and that will conclude this

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hearing.

C E R T I F I C A T E

I, Tammy Wittman, 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 Tammy Wittman

Date July 6, 2010