NYC Commission on Human Rights

Central Office Address:
22 Reade Street
New York, NY 10007

Testimony of Dana Sussman
Deputy Commissioner for Policy and Intergovernmental Affairs
New York City Commission on Human Rights
Before the Committee on Civil and Human Rights
September 18, 2019

Good morning Chair Eugene and committee members. I am Dana Sussman, Deputy Commissioner for Intergovernmental Affairs and Policy at the Commission on Human Rights. Thank you for convening today's hearing on Intros. 85 and 1603, two important bills in the City's effort to address housing discrimination and access to housing.

The Commission's efforts to combat housing discrimination are more robust than ever. In January 2018, the Commission established its source of income unit, a small, dedicated unit of staff specifically focused on both immediate interventions and larger-scale systemic prosecutions to combat source of income discrimination, in which individuals with housing vouchers, including Section 8, City FEPS, HASA or other forms of rental subsidies, are turned away by landlords who refuse to accept them, which has been a violation of the City Human Rights Law since 2008. Since the inception of the Source of Income Unit, the unit has resolved 236 cases through pre-complaint intervention, securing housing for housing insecure or homeless New Yorkers after being turned away by a housing provider because of their voucher; allowing a tenant to remain in their home through the use of a voucher; getting a voucher restored or extended; or delaying or preventing an eviction. In addition to responding immediately to critically urgent cases, the unit also files complaints against housing providers where appropriate, particularly where pre-complaint intervention does not resolve the matter, where a housing provider has repeatedly violated the law, or where a systemic pattern-or-practice issue is identified.

The Commission resolved a case earlier this year that is demonstrative of its comprehensive efforts to combat source of income discrimination. The case involved a prospective tenant who alleged that Respondent, the owner of three buildings containing affordable units, refused to accept Complainant's SEPS Voucher and denied her housing application. After the complaint was filed, Respondent promptly expressed a desire to resolve the case and cooperated fully in the Commission's investigation. The Commission's investigation revealed that Respondent had an unlawful policy of refusing to accept SEPS Vouchers, and that at least two individuals, including Complainant, had been denied pursuant to that policy. The Commission, Complainant, and Respondent entered into a conciliation agreement requiring Respondent to pay emotional distress and damages to Complainant for loss of housing opportunity and civil penalties to the general fund of the City of New York. Respondent also agreed to adopt model policies regarding tenant screening, reasonable accommodations, and the use of criminal history information in making housing decisions, to train all employees with managerial authority or with job duties related to reviewing applications, and to post the Commission's Fair Housing poster in all buildings in New York City.

In addition to the Commission's targeted efforts to combat source of income discrimination, the Commission's efforts to address housing discrimination across all protected categories, including race, immigration status, national origin, disability, and others, involve several creative

strategies. The Commission's Project Equal Access continues to advocate for accommodations for people with disabilities in housing through its pre-complaint resolution efforts, achieving 174 such resolutions in Fiscal Year 2019, up significantly from Fiscal Year 2018. Project Equal Access remains a key program of the Commission in its focus on resolving matters for members of the public expeditiously and without litigation where appropriate. Project Equal Access deploys specialized staff at the Commission to work directly with landlords and other housing providers to create physical modifications and other accommodations to allow people with disabilities to remain in their homes, improve access to common spaces and entrances/exits, and ensure that people can live with their service animals or emotional support animals.

In Fiscal Year 2019, the Commission resolved a groundbreaking, first of its kind case against a large landlord based on its use of criminal history to screen out applicants, using the legal theory – relying on 2016 HUD guidance and national statistics – that such a policy has a disproportionate impact on Black and Latinx prospective tenants. In another groundbreaking resolution, the Commission, earlier this year, resolved a case involving a large housing provider that failed to reasonably accommodate a tenant's use of a wheelchair by refusing his repeated requests over several years to widen a bathroom door and install a roll-in shower in his apartment, and to make the building's entrance accessible. After the Law Enforcement Bureau investigated and issued a probable cause determination, the parties entered into a conciliation agreement requiring the housing provider to revise its anti-discrimination policies; create a website—the first of its kind as part of a conciliation agreement with the Commission—that is specifically designed to be accessible to individuals with disabilities and includes information about requesting reasonable accommodations; conduct anti-discrimination training for all employees; display the Commission's postings; and pay Complainant $160,000 in emotional distress damages, the highest emotional distress damages award to date in a housing action. As further relief negotiated under the settlement, the housing provider installed automated entrance and mailroom doors throughout the four buildings of the housing complex to make the entire complex physically accessible to individuals with mobility impairments.

Intro. 85 would make it a protected category under the New York City Human Rights Law to discriminate in housing based on a prospective or current tenant's inclusion on a "tenant blacklist," i.e. tenant screening lists that are used to identify supposedly risky renters by naming tenants who have been involved in a housing court case. The bill adds participating in a housing court proceeding to the list of protected categories in the housing discrimination section New York City Human Rights Law.

Since Intro. 85 was drafted and introduced, there have been legislative changes at the state level prohibiting the use of "tenant blacklists" as a screening tool for prospective tenants. Specifically, Real Property Law Section 227-f empowers the attorney general to civilly prosecute landlords who continue to use these lists. The Administration looks forward to working with the Council to consider ways that the City can strengthen these protections by allowing for a private right of action under City law. In fact, use of Housing Court history, including any past or pending landlord-tenant actions or summary proceedings, is no longer permitted in tenant selection pursuant to the Department of Housing Preservation and Development's (HPD) updated marketing guidelines. Intro. 85 would ensure that protections in the private market are also similarly well-enforced.

Central Office Address:
22 Reade Street
New York, NY 10007

Intro. 1603 would make it an unlawful discriminatory practice to deny a rental or lease of a housing accommodation controlled or subsidized or both by HPD based on prohibited indicators of credit. As my colleague at HPD mentioned, since this bill was introduced, HPD updated its marketing guidelines in August 2019 to allow applicant the choice to avoid a credit check by providing evidence of 12 months' complete rent payments. In the Commission's experience, housing providers regularly use credit history as an arbitrary basis for rejecting qualified applicants who are demonstrably able to pay their rent on time. Some housing providers, for example, have rejected applicants based on their credit history, even where 100% of the rent will be covered by a housing voucher. The Commission prosecutes such cases as discrimination based on lawful source of income. However, we believe that additional protections along the lines of those proposed in Intro. 1603 can help to remove unnecessary impediments to housing in our city.

The Commission and HPD along with our partners in the Administration look forward to working with the Council on these critical issues.

Testimony by
The New York City Department of Housing Preservation and Development
to the
New York City Council Committee on Civil and Human Rights
regarding Introductions 85 and 1603

September 18, 2019

Good morning Chair Eugene, and members of the Committee on Civil and Human Rights. I am Margaret Brown, Associate Commissioner for Housing Opportunity and Program Services. This is my first time testifying in front of the Civil and Human Rights Committee, and I'm excited for the opportunity to explain a bit more about our work. Affordable housing is one of the biggest concerns that New Yorkers face, and correspondingly, it is one of the top priorities of Mayor de Blasio's administration. Our housing lottery process is a vital way to connect New Yorkers to the affordable homes we are producing at record pace.

Creating and Connecting Affordable Homes to New Yorkers in Need

It is no secret that there is a housing crisis in New York City. Although we now have the largest housing stock on record, the City's vacancy rate remains low at 3.63%. Building on our successes during the first few years of this administration, we accelerated and expanded our housing plan to achieve 300,000 affordable homes by 2026, and released *Housing New York 2.0*, a suite of new programs, partnerships, and strategies to help thousands more families and seniors afford their rent, buy a first home, and stay in the neighborhoods they love. As a result, five years into the plan, we have established a new baseline for how affordable housing can and should be built in New York City. Already, this administration has financed over 135,000 affordable apartments through Fiscal Year (FY19) 2019, 57,000 of which serve low income individuals making less than roughly $36,500 per year, or $47,000 for a family of three.

As we accelerate and expand the goals of Housing New York, we are also looking to speed up the delivery of the affordable housing we are producing and ensure those homes serve the New Yorkers who need them the most. Housing Connect, the City's affordable housing lottery system, allows New Yorkers to search for affordable housing, fill out a profile, and apply for multiple homes with a few clicks of a button. Since launching in 2013 through December 2018, over 2.2 million people have made accounts on Housing Connect, 1.2 million have submitted applications, and 23,000 households have —or soon will—move into new homes. Now six years after this revolutionary application was created, HPD is currently building our new and improved Housing Connect 2.0 system to launch next year, which will include an even friendlier user experience.

In order to make New York the fairest big City in America, HPD also updated our marketing policies that developers must follow to further limit how credit history impacts housing applicants, address and clarify complexities in income calculations, ensure special protections for survivors of domestic violence, and make the lottery selection process more efficient. Just last month, we also rolled out new policies to reduce the chances of a tenant being denied a unit due to poor credit history, with the introduction of the option for applicants to provide 12 months of positive rent payment history rather than a landlord-initiated credit check.

This change also paves the way for applicants to apply for affordable housing without the need to provide a Social Security Number or an Individual Taxpayer Identification Number for every adult in the household. The policy updates also lower credit check fees to sync with the new State rent laws, which limit credit check and background check fees to $20 per application, and lets applicants avoid credit check fees altogether by providing a recent credit check to the landlord. Further, HPD updated our policies to alight with the recent New York State Housing Stability and Tenant Protection Act of 2019, which no longer allows Court history to be considered when evaluating a potential tenant in any New York apartment.

These updates demonstrate the City's continued commitment to create more opportunities for all New Yorkers. Importantly, developers must also meet all of the steps outlined in the published marketing requirements before they are able to go forward with selecting applicants.

HPD has also been very focused on expanding our existing outreach tools and education efforts. We currently have robust communication requirements during the marketing process, including but not limited to outreach to local Community Boards, elected officials, and the general public through online and print advertisements both citywide and local.

Understanding that some may find applying for projects to be complicated, HPD provides resources to lottery applicants in a variety of ways. Besides hosting biweekly marketing seminars for potential lottery applicants to teach them about the process, our Housing Ambassador program partners with community-based service providers such as IMPACCT Brooklyn or the Mutual Housing Association of New York who help individuals prepare and apply for open lotteries. We've also conducted Housing Ambassador training for Council staff both at 100 Gold and in district offices, and are always looking for more opportunities to continue this partnership. HPD and the Department of Consumer and Worker Protection's Ready to Rent initiative, supported by the Council, also provides free one-on-one financial counseling and assistance with affordable housing applications; and our resource fairs, marketing seminars, and mobile van allow us to assist New Yorkers directly in their communities. Thanks to the City Council, we've also been able to translate application guides into 17 languages.

With this robust and aggressive work in mind, we appreciate the Council's shared goal to increase access to our lottery system. We thank Council Members Kallos and Levine for their leadership in application process and we are happy to discuss further Introductions 85 and 1603, which codify many existing practices in place due to recent policy changes by HPD or by the passage of the New York State Housing Stability and Tenant Protection Act of 2019 to ensure that any future legislation matches these recent changes. We would also be interested in discussing Intro 1603 further, thinking about how it could be implemented to more than just HPD-financed projects.

Thank you again for the opportunity to testify. I will now take any questions.

THE LEGAL AID SOCIETY

THE LEGAL AID SOCIETY
199 Water Street, 3rd Floor
New York, NY 10038
(212) 577-3300

TESTIMONY OF THE LEGAL AID SOCIETY BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON CIVIL RIGHTS ON INT 0085-2018 AND INT 1603-2019

September 18, 2019

Introduction

Thank you Chairperson Mathieu Eugene and members of the Committee on Civil and Human Rights for the opportunity to testify today on behalf of The Legal Aid Society (the Society), the nation's oldest and largest not-for-profit legal services organization. The Society is more than a law firm for clients who cannot afford counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform. It has performed this role in city, state and federal courts since 1876. The Society's unique value is in its ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic changes for society as a whole. Through a network of borough, neighborhood, and courthouse-based offices in 26 locations in New York City, and more than 2,000 attorneys, paralegals, social workers, investigators and support staff, along with volunteer help coordinated by the Society's *Pro Bono* program, we provide comprehensive legal services to fulfill our mission that no New Yorker should be denied access to justice because of poverty. Through three major practices — Civil, Criminal, and Juvenile Rights — the Society handles approximately 300,000 cases a year in city,

state, and federal courts. This includes over 50,000 individual civil matters and law reform cases which benefit over 2 million low income families and individuals. Whether through long-time advocacy for the right to counsel in criminal defense or juvenile justice issues; or to directly address emergent or systemic issues our client communities face, the Society acts as one of New York City's first responders, protecting and enforcing the legal rights of families and individuals. Amidst all-time record homelessness, high unemployment throughout our client communities, and the ongoing and increasingly acute affordable housing shortage, New York City's low-income families and individuals are in critical need of protection.

The Society's Civil Practice improves the lives of low-income New Yorkers who struggle daily to buy food, pay rent, achieve or maintain self-sufficiency, and keep their families healthy and safe. The Civil Practice addresses a broad range of legal problems, including; housing, homelessness prevention, and foreclosure prevention; family law and domestic violence; employment issues faced by low-wage workers; public assistance; Supplemental Nutrition Assistance Program (SNAP) benefits; disability-related assistance; health law; HIV/AIDS and chronic diseases; elder law; tax law for low-income workers; consumer law; education law; immigration law; community development legal assistance; and reentry and reintegration matters for formerly incarcerated clients. Through sixteen neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and special projects, the Society's Civil Practice provides direct legal assistance to low income individuals. In addition to individual assistance, The Legal Aid Society represents clients in law reform litigation, advocacy and neighborhood initiatives, and provides extensive back up support and technical assistance to community organizations.

The Society has prioritized housing assistance throughout our 140-year history. Since its inception in the 1870s, The Legal Aid Society has been at the forefront of the fight to protect the

most vulnerable members of New York City. The Civil Practice's Comprehensive Housing Practice is our largest practice area and comprised over 50% of our total caseload during the last fiscal year. Through our Comprehensive Housing Practice in all five boroughs, the Society provides comprehensive anti-eviction legal services to low-income New Yorkers to prevent homelessness. Our citywide housing practice offers critical legal services to prevent homelessness through direct representation in nonpayment and holdover proceedings. We are able to help low-income New Yorkers maintain affordable housing, ensure landlords maintain habitability standards, obtain and preserve rent subsidies for clients, fight illegal rent overcharges and prevent evictions. These efforts prevent homelessness and displacement and save the City and State millions of dollars each year in averted shelter costs alone.

Protecting Prospective Tenants Amidst a Housing Shortage

The Legal Aid Society commends the Committee on Civil Rights for holding today's hearing on these two bills, which prohibits the use of tenant 'blacklists' by landlords in regards to the screening of prospective tenants; and, which prohibits the use of certain credit information in rental housing applications for apartments controlled or subsidized by the Department of Housing Preservation Development (HPD). In addition, the bills would prohibit the consideration of the credit history of anyone other than the tenant's designated representative, and require key disclosures on the process and criteria for credit evaluation. The Legal Aid Society strongly supports the passage of both bills, which are long overdue and would ease access to affordable housing for numerous New Yorkers.

Intro 85

The practice of blacklisting tenants, simply for appearing in housing court as a defendant, is unjust and unfair. Landlords use tenant screening reports to target low-income tenants and prevent access to quality and affordable housing. This bill reforms the tenant-screening process by preventing landlords from unfairly penalizing tenants and providing tenants the necessary protections to ensure a fair and equitable screening process. At a time of increasing homelessness and lack of access to affordable housing, this abusive screening tool by landlords and brokers should be banned.

For decades, Tenant Screening Bureaus (TSBs) would collect the names of individuals named as defendants in housing court, so that when one of them applied for an apartment, their application would be rejected because their name appeared on a list.[1] In many cases, the reports only mention that the tenant was a defendant in housing court, without providing any more details. TSB reports are often inaccurate, incomplete or misleading. Even if a tenant prevails against their landlord in a court of law, they are often still added to these screening reports and find themselves blackballed by prospective landlords. For example, if a tenant is awarded rent abatement for almost the entire amount claimed by the landlord, the report will only state a judgment was entered against the tenant. Even if the tenant was sued after fleeing the apartment for safety reasons or for legally withholding rent for necessary repairs, was improperly sued for a meritless holdover or nonpayment claim, or otherwise ultimately prevailed in the case, these reports can damage the applicant's chances of getting into a new apartment.

---

[1] Paula A. Franzese, A Place to Call Home: Tenant Blacklisting and the Denial of Opportunity, 45 Fordham urb. l.j. 661, 666–69 (2018) (explaining that an eviction proceeding on a tenant's record "will all but assure denial of her rental application"); In New York City, this practice of "blacklisting" has been common, and companies are often hired by landlords to search landlord-tenant court files to identify such tenants. Kim Barker & Jessica Silver-Greenberg, On Tenant Blacklist, Errors and Renters With Little Recourse, n.y. times (Aug. 16, 2016), https://www.nytimes.com/2016/08/17/nyregion/newyork-housing-tenant-blacklist.html.

The practice of tenant 'blacklisting' has had a chilling effect on a tenant's right to withhold rent to make necessary repairs. The bill protects tenants living in homes with health and safety issues who have legally withheld rent to force their landlords to make the necessary repairs. Tenant blacklisting also hinders the efforts of numerous domestic violence survivors seeking to obtain housing, a critical step for their recovery. Even if the tenant was sued after fleeing the apartment for safety reasons, they will be blacklisted from accessing housing.

Until recently, there was no state and minimal federal regulations of TSBs. Under the Fair Credit Reporting Act, TSBs, must provide a free copy of its report on a tenant who experiences an adverse action due to their report.[2] However, while landlords are required to notify applicants that they use a tenant screening report, they often do not disclose to applicants the reason for rejection.[3] Other landlords may screen applicants before even offering them an application and so do not ever provide an adverse action notice. Additionally, with nearly 650 TSBs in the United States providing reports, with information that may be different or incorrect, it is nearly impossible for consumers to ensure the accuracy of the report used by every landlord to whom they apply.[4]

This bill builds upon the recently passed state rent reform legislation that includes a ban on the use of TSB reports by landlords.[5] While the new state law expressly permits the NYS Attorney General to bring an action or special proceeding in Supreme Court to seek injunctive relief and limited civil penalties, Int. 85 would allow aggrieved tenants to bring a civil action within three years to seek compensatory damages, punitive damages, and attorney's fees.[6]

---

[2] Fair Credit Reporting Act, 15 U.S.C. § 1681m(a) (Westlaw through Pub. L. No. 115-140).
[3] 20 N.Y.C. Admin. Code § 20-808 (Tenant Screening Report Disclosure).
[4] The N.Y. State Bar Ass'n, The Use of Tenant Screening Reports and Tenant Blacklisting 7 (2015).
[5] Y. Real Prop. Law § 227-f.
[6] N.Y.C. Administrative Code § 8-502(a).

Intro. 1603

Intro. 1603 would prevent the consideration of a credit score, consumer debt judgment, collection account or medical debt in the rental application of prospective tenants for apartments controlled or subsidized by the Department of Housing Preservation and Development (HPD). Moreover, it would ban the practice of owner of such an apartment from considering the consumer credit history of anyone other than the designated household representative, and require disclosure of the process and criteria by which the credit history will be evaluated.

These are serious racial disparities in credit, which should not be allowed to expand into determining who has access to affordable housing. The bill would still allow landlords to run detailed credit reports and use other information, such as history of bankruptcy, foreclosure, and delinquencies on current debt, when evaluating prospective tenants. It is critical to allow tenants who have faced financial hardship, but are able to pay their rent, to have access to housing.

The information, which the bill seeks to preclude from consideration, including credit scores, are notoriously unreliable and regularly consist of erroneous information. A 2013 Federal Trade Commission study found one in five consumers have material errors on their credit reports.[7] Other studies have shown that around twenty-five percent of credit reports contain serious errors which were enough to deny credit.[8] There are several reasons for these inaccuracies, but a primary factor is that credit bureaus are often unable to match a name with a particular account. The use of just a partial name match and seven of nine digits of a person's Society Security number leads to large numbers of accounts being mistakenly matched to others

---

[7] Federal Trade Commission. *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, December 2012, available at http://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf.

[8] Nat'l Ass'n of State PIRGs, *Mistakes Do Happen: A Look at Errors in Consumer Credit Reports* 11, June 2004, available at http://www.uspirg.org/sites/pirg/files/reports/Mistakes_Do_Happen_2004_USPIRG.pdf.

with similar names and social security numbers.[9] The Legal Aid Society is regularly approached by consumers seeking assistance with errors on their credit reports that result in economic repercussions. The process of correcting a credit report with the credit reporting bureaus is confusing, time consuming, and overly complicated for the average consumer. This task is far more difficult when the victim is an immigrant, a low-income individual, or a member of another vulnerable community.

Numerous consumers are the victims of identity theft, which has an adverse impact on their credit scores and consequently their ability to obtain housing. Identity theft is widely considered to be one of the fastest growing crimes in the United States. The rapid growth of identity theft is due to the multiple ways in which we process and share information. The Federal Trade Commission (FTC) estimates that in one year, as many as ten million people – or 4.6 percent of the U.S. adult population – discover that they are victims of some form of identity theft.[10] Approximately 16.6 million persons or seven percent of persons age 16 or older were victims of identity theft in 2012.[11] Furthermore, according to the FTC, more than 50 billion dollars in identity fraud is committed each year.[12] The victims of identity theft go through a vicious cycle where a single theft of their personal information leads to severe consequences for their ability to obtain housing, and also has a lasting impact on their ability to obtain credit. Identity theft is a serious problem because, among other things, it can take a long time before a victim becomes aware that a crime has taken place. Often the victim discovers the fraud only

---

[9] Hunter, Stuart, *It's Disturbingly Likely That Your Credit Report is Wrong*, Huffington Post, August 11, 2014, available at http://www.huffingtonpost.com/2014/08/11/credit-report-bureau-mistakes-_n_5661956.html.

[10] Daniel Bertoni, *Identity Theft: Governments Have Acted to Protect Personally Identifiable Information, but Vulnerabilities Remain,* United States GAO, Testimony Before the Subcommittee on Information Policy, Census and National Archives, Committee on Oversight and Government Reform. House of Representatives, GAO-09-759T June 17, 2009, available at http://www.gao.gov/new.items/d09759t.pdf.

[11] Erika Harrell, Lynn Langton, *Victims of Identity Theft 2012*, Bureau of Justice Statistics. December 12, 2013. available at http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4821.

[12] GAO-09-759T, June 17, 2009. p. 3.

when the adverse results of the identity theft are discovered, such as when they are denied housing due to a background credit check by a prospective landlord.

Medical debts incurred by a tenant, or by a tenant's relative for which the tenant remains liable, in most cases has no bearing on the person's integrity or willingness pay rent. Moreover, there are significant privacy concerns when prospective landlords have access to a person's medical history. Someone's medical history, or personal medical information, should not be included in considering a rental application. A study by the Federal Reserve Board found that more than half of all accounts reported by collection agencies on credit reports consist of medical debt.[13] It is bad public policy to impute financial irresponsibility because someone who is uninsured incurs medical debt through no fault of their own.

Issues such as language and systemic barriers, misinformation, cultural differences, and an underdeveloped trust for traditional financial institutions keep new immigrants from opening accounts at depository institutions, directly bearing on their credit scores. Some of the reasons immigrants choose to use alternative financial service providers, as opposed to banks, are the cost, documentation requirements, minimum balance requirements, and convenience. Outside the system for conventional credit building, many immigrants lack the ability to acquire the credit history necessary to take out loans, credit lines and other financial services. Immigrants are less likely to have established a credit history. Using credit history for opportunities beyond lending creates disadvantages for millions of immigrants trying to obtain housing.

---

[13] Robert Avery, Paul Calem, Glenn Canner & Raphael Bostic, *An Overview of Consumer Data and Credit Reporting*, Federal Reserve Bulletin, 2003, available at http://www.federalreserve.gov/pubs/bulletin/2003/0203lead.pdf.

Conclusion

Tenant 'blacklisting' and the use of past consumer debt, medical debt, and credit scores, continue to deny affordable housing to numerous New Yorkers and place them on a downward spiral towards homelessness. The Legal Aid Society strongly supports the passage of Int. 85 and 1603, and applauds the Committee on Civil and Human Rights for holding this hearing.

With respect to Intro 1603, we urge the Council to consider expanding its reach to New York City's housing stock outside of that controlled and/or subsidized by HPD. For example, there are approximately one million rent stabilized apartments in New York City that are overseen by the New York State Division of Housing and Community Renewal. ("HCR"). Also, prospective tenants vying for housing via NYCHA public housing, unsubsidized private housing and the many other types of regulated housing that exist in New York City face the same obstacles this legislation would clear for HPD housing applicants. They should enjoy the same protections. Providing such protections would further this bill's goal of removing some of the artificial barriers many face when attempting to access safe, clean and secure housing.

On behalf of the many low income consumers we represent, thank you again for the opportunity to testify.

Respectfully submitted,

Tashi Lhewa, Esq.
Robert Desir, Esq.
The Legal Aid Society

chip

COMMUNITY HOUSING IMPROVEMENT PROGRAM, INC.

FOR THE RECORD

Testimony of the Community Housing Improvement Program re: Intro. 85 of 2018
Submitted to the Committee on Civil and Human Rights
September 18, 2019

CHIP is not completely opposed to the concept of establishing a standard of reasonable usage for housing court data, but we are opposed to this bill in its current form for several reasons. Perhaps the biggest concern is the unintended consequences legislation of this sort will have on the availability of housing for low-income families and those with poor credit history. As explained below, most building owners and property managers do not use housing court information as a blacklist, but as one factor that is viewed in context with several other factors to create an estimate of the potential tenant's ability to and likelihood of paying their rent. We would like to take this opportunity to correct misconceptions about the so-called tenant blacklist, and in doing so, ask that the Committee use this information to craft a law that is better at targeting the misuse of this information rather than creating a blanket prohibition on it completely. To be clear, this testimony is submitted on behalf of building owners who are not participating in affordable housing programs or otherwise have their buildings subsidized through tax benefits or other government assistance. Rather, CHIP is speaking on behalf of private owners who provide affordable housing without the government's intervention.

Unfortunately, some lawmakers and members of the public truly believe that there is a "blacklist" used by building owners to categorically deny any applicant who has ever been named in a housing court action. This simply is not the case. In fact, according to several CHIP members and screening companies we have spoken to, fewer than 10% of property managers have an absolute rule that the presence of a housing court record is grounds for automatic denial. In other words, 90% of housing providers do NOT "misuse" housing court records. While many take the presence of prior housing court cases into account (in context with other factors like credit behavior/scoring or income), the existence of a case by itself will usually not disqualify an applicant. CHIP has also found that in other states, where access to housing records is not severely restricted and there is better detail in the records (e.g., type of case, disposition of case), building owners are able to use the information more judiciously. In other words, more information is better. Simply put, when building owners have access to all cases, they use the information in a reasonable manner and when access is limited, they mitigate risk by getting strict in other ways.

Rather than a blanket prohibition on the use of any housing court case, we suggest creating a better system of reporting this information, so that there is more detail on type of case and disposition of the case. If the court records have more detail, the Council can better target any prohibitions on the use of the misleading information. For example, housing court cases related to habitability issues should not necessarily count as a strike against a potential tenant. If building owners were able to distinguish between a case that was justified on habitability issues and a case where the tenant stopped paying rent for other reasons, they would treat those cases differently in their screening process.

Barring the use of housing court information will lead to building owners putting more weight on other factors, in particular the tenant's income and credit history. The unfortunate consequence of this shift is that an applicant who chooses to not pay medical bills and student loans – debts that arguably do not correlate to whether or not an applicant is likely to pay rent but are reported on credit reports and affect credit scoring – will be judged on these factors. Often, owners will discount a bad credit score

resulting from medical and education debts if there are no (or very old) housing court cases. But without being able to use that court information, owners will be forced to rely more heavily on the credit score as a proxy for risk assessment.

Finally, it's important to consider the effects these laws have on building owners. When tenants willfully decide not to pay rent, it impacts the ability for many landlords to pay their bills. If the court system truly provided an expedited process to resolve these disputes, perhaps the need for housing court information would dissipate. But the prospect of a potential tenant being able to live rent free in an apartment for at least six months (probably closer to one year or more) simply because they decide not to pay rent and can take advantage of a slow moving court system makes an owner extremely cautious about renting to litigious tenants. One non-payment case can effectively strip one year of rental income from a building's budget, and this will disproportionately impact smaller building owners.

CHIP is supportive of any effort to increase access to housing for all individuals, but the unintended consequences of restricting information on which building owners rely to make reasonable assessments of risk would actually serve to limit access, in particular to low-income families and those with a poor credit score. By taking away all access to court information, building owners are forced to use other information as a proxy, which will have a negative impact on otherwise risk-worthy applicants for housing.

5 Hanover Square, Suite 1605 New York NY 10004
Tel (212) 838 7442 Fax (212) 838 7456 www.chipnyc.org

Testimony of Cathren Cohen, Law Fellow, Lambda Legal, September 18, 2019

Good Morning, my name is Cathren Cohen and I am an attorney with Lambda Legal here in New York City. Thank you for the opportunity to speak today in support of the proposal to repeal the City's ordinance banning the sale of conversion therapy.

First, I want to thank this Committee and the Council as a whole for your commitment to addressing the needs of the LGBTQ population in New York City and for taking up this important matter.

I am here to express Lambda Legal's strong support for the Council's bill to repeal this ordinance. It is the collective understanding of advocates working to promote LGBTQ and civil rights, such as Lambda Legal, the National Center for Lesbian Rights, and the Southern Poverty Law Center, that this is the best course of action to protect conversion therapy laws across the country.

Nearly 700,000 LGBTQ adults in the U.S. have been subjected to conversion therapy at some point in their lives, half of those being in their adolescence.[1] As a result of statewide laws in eighteen states, an estimated 10,000 LGBTQ youth have been protected from experiencing this life-threatening practice.[2]

Lambda Legal supported the ordinance which made clear that the sale of conversion therapy is fraudulent when it was enacted by City Council in 2017. At that time, there were no state-wide, express protections against this harmful practice. The City took important action when the State would not.

Earlier this year, the State took the necessary step of passing a law that protects LGBTQ minors throughout the State. Additionally, in the last two years several lawsuits have shown that consumer fraud laws are an additional and powerful remedy against this harmful practice.

Throughout New York, minors are now protected by the state's new law. Everyone else is protected, and has recourse, by virtue of the State's and the City's robust

---

[1] Mallory, et al., *Conversion Therapy and LGBT Youth Update,* June 2019, available at https://williamsinstitute.law.ucla.edu/wp-content/uploads/Conversion-Therapy-LGBT-Youth-Update-June-2019.pdf.
[2] *Id.*

consumer protections, which exist independently of the ordinance. We applaud the City's leadership in spurring a statewide law and in taking this strategic step to avoid baseless yet potentially damaging litigation. We thank the City and the Civil and Human Rights Committee, and urge passage of the motion.

Cathren Cohen
Law Fellow
Lambda Legal Defense and Education Fund, Inc.

New York City Council

Committee on Civil and Human Rights

Hearing on Intro 0085 & Intro 1603

Testimony of Annie Carforo

Campaign Manager, Neighbors Together

September 18th, 2019

Thank you to the members of the Committee on Civil and Human Rights for the opportunity to testify today. My name is Annie Carforo, and I am here on behalf of Neighbors Together, a social service and advocacy organization located in central Brooklyn. We are here in support of both Intro 0085 and Intro 1603.

As our city grapples with an unprecedented homeless crisis, it is clear for our members who are experiencing homelessness or unstable housing that finding an apartment for themselves and their families is imperative if they want to re-establish their lives. Unfortunately, New York City's housing market has become increasingly difficult to penetrate if you are low income, particularly because of the unrelenting barriers that landlords and brokers reinforce.

The majority of our members rely on rental assistance programs to help subsidize their rent. Many of them received their vouchers after a legal eviction due to nonpayment of rent, and were given a voucher with the intended purpose to ensure they would never be in that situation again. However, the very circumstances that helped them secure their voucher then prevents them from utilizing their rental assistance because they show up on the "Tenant Blacklist." The "Tenant Blacklist" is arbitrary at best. Without details of the situations behind court appearances, landlords have been allowed to judge an applicant superficially, and most times, inaccurately.

As for Int. 1603, we are ecstatic to see the council take steps forward to legally protect housing applicants from credit requirements. Credit is a biased calculation that advantages people of privilege. You have to have financial flexibility to build and maintain strong credit - and costly expenses, like rent payments, will not factor into your score. If you are low income or on a fixed income, it only takes one

unforeseen circumstance to destroy your credit, and increasingly, we have seen it become a tool landlords use to deter low-income New Yorkers from applying to their buildings. While Int. 1603 will help the thousands of New Yorkers who rely on Housing Connect for affordable housing, the bill neglects to include language for people with rental assistance subsidies, another vulnerable population held captive by credit requirements.

While source of income discrimination is illegal, credit requirements are not. The lack of legal protection has left a convenient loophole for landlords to abuse. They frequently cite credit as the disqualifying factor for voucher holders in housing opportunities. When we conduct housing searches at Neighbors Together, far more frequently do we witness brokers turn down our members because of their credit, not because of their voucher. We hope that the council does not overlook the opportunity to close this unabated loophole, and help strengthen housing vouchers. I am confident that a bill including protections from credit requirements for people using rental assistance subsidies will have a noticeable impact on the housing and homelessness crisis. Thank you for your time.

For more information on the testimony provided, please contact Annie Carforo at 718-498-7256 ext. 5010 or annie@neighborstogether.org.

New York City Council

Committee on Civil and Human Rights

Hearing on Int. 0085 & Int. 1603

Testimony of Nailah Abdul-Mubdi

Member Leader, Neighbors Together

September 18th, 2019

Good morning councilmembers. Thank you for this opportunity to speak. My name is Nailah Abdul-Mubdi. I am a single mother of two currently doubled up with my sister and her children in an apartment, even though I have been a FHEPS voucher holder for over a year.

I felt a very strong need to come and testify today. I applaud the council, and specifically councilmember Levine for introducing Intro. 1603, which will protect a large swath of New Yorkers who rely on Housing Connect for their affordable housing from unfair and unrealistic credit requirements. However, this bill neglects to include protections for voucher holders, another large, vulnerable population of New Yorkers who need housing, and who are manipulated by brokers and landlords because of their credit every single day.

My credit score is currently 628 – which in my opinion, is respectable due to my financial circumstances, and the fact that I have a voucher that will pay 70% of my rent guaranteed.

While I was pregnant with my second child, I experienced pre-mature labor. My baby had a number of medical issues and remained in the NICU for 3 months after her birth. I was forced to quit my job during this time, and could not keep up with my bills. Understandably to most, my credit took a hit.

When I received the voucher, I never thought my credit would be used so deliberately against me. Landlords and brokers have learned that they can no longer say outright "no vouchers" without facing consequences. Instead, they set ridiculously high credit requirements to effectively ban all low income people from applying to their apartments. They already know that

we won't meet the criteria, so they can say with confidence "We accept vouchers, but you need to have a 700 credit score".

So now, my credit, a number that does not reflect my ability, or history of on time rent payments, is what's stopping me from finding a home. I hope the council understands, that if I want to work on my financial stability, I need a home. These landlords don't care that in my last apartment, I paid rent on time every month, or that I have a reference letter from a past landlord. They definitely don't care that I have a voucher that will guarantee my rent every month. Until something changes, they will use this surface level number to judge my financial responsibility.

To conclude, while I am grateful for Intro 1603, I feel strongly that it needs to go farther to protect people with rental assistance subsidies. This is a population that will continue to be held captive by their credit until a new law is passed.

Thank you for your time.

For more information on the testimony provided, please contact Annie Carforo at 718-498-7256 ext. 5010 or annie@neighborstogether.org.

Testimony of Eric Lesh, Executive Director of the LGBT Bar Association of New York, September 18, 2019

Good morning, and thank you for the opportunity to speak in support of the proposal to repeal the City's ordinance banning the sale of conversion therapy.

My name is Eric Lesh, and I'm the Executive Director of the LGBT Bar Association of New York. But I'm here not just on behalf of the LGBT Bar; I'm also here on behalf of other civil rights and advocacy groups that have worked for years to end conversion therapy nationwide.

These other groups include the National Center for Lesbian Rights, Lambda Legal, the Southern Poverty Law Center, and the Mattachine Society of Washington DC, all of whom speak with a single voice on this:

Repealing the ordinance is the right thing to do and now is the right time to do it.

At the outset I want to thank the council and the Civil and Human Rights Committee for their leadership on this issue and other issues affecting the City's LGBTQ citizens.

When the City enacted this ordinance in 2017, there were no state-wide, express prohibitions on the practice of conversion therapy. The State of New York had considered, but not enacted, legislation protecting minors from conversion therapy.

The City's decision in 2017 to go forward with its own measure in light of the State's failure to act was bold, strategic, and timely. In our estimation, the City's action elevated the discussion about the dangers of conversion therapy and set the stage for the enactment of the statewide law. That law, which was enacted earlier this year, now provides critical protections to LGBTQ minors throughout the State.

Other things have changed as well in the time since the enactment of the ordinance. Lawsuits filed by the National Center for Lesbian Rights, the Southern Poverty Law Center, and others, have confirmed that consumer fraud laws are a powerful tool in the fight against conversion therapy. They can be invoked to obtain justice and compensation for people harmed by conversion therapy, and to prevent similar harm to others, both minors and adults.

Just this past June, for example, in a lawsuit filed by the Southern Poverty Law Center, a judge in Jersey City confirmed that an organization that peddled the discredited and harmful practice of conversion therapy, promising a "cure" for being gay, must dissolve and cease all activities. The judge also ordered

that it pay a total of $3.5 million in attorney fees. That organization will never provide conversion therapy again.

Meanwhile, social science continues to demonstrate the extreme dangers of conversion therapy. Just this month, for example, a study published in the Journal of American Medicine found that, for transgender people, exposure to conversion therapy doubles the rate of suicide attempts. And for transgender people who underwent conversion therapy before the age of ten, conversion therapy multiplied that risk four times.[1]

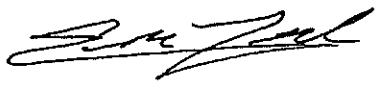
A study by the Family Acceptance Project released last November found that when parents send their LGB or T child to conversion therapy, they triple the risk of a suicide attempt. The study concluded that sixty-three percent of young LGBT people sent by their parents to conversion therapy had attempted suicide. Sixty-three percent.[2]

This alarming research confirms that advocates and policy makers must redouble their efforts to end conversion therapy once and for all—and they must do so in a careful, informed, and strategic way that preserves our ability to protect our community nationwide.

This is why national and local LGBTQ advocacy groups have, unanimously, praised the Council's decision to repeal the City's ordinance. Throughout the state, minors are protected by the state's new law. Everyone else is protected, and has recourse, by virtue of the State's and the City's robust consumer protections. The ordinance has become, over time, duplicative and in the face of litigation, unnecessary.

Repealing the ordinance now avoids the costs and risks of litigation, allows the City to focus its efforts and resources on other ways to protect LGBTQ communities at risk, and shows that the City is a committed and strategic ally in the long-term fight to end conversion therapy. In contrast, it makes no sense to waste time and resources on a lawsuit, which always presents some risk of loss. While we believe the law is valid, it is no longer needed, and a loss could needlessly jeopardize other laws. This decision is the best way to both preserve New York's protections and ensure that we can keep moving forward to prevent this dangerous and fraudulent practice in all fifty states.

We thank the City and the Civil and Human Rights Committee and urge passage of the motion.



Eric Lesh
Executive Director
LGBT Bar Association of New York

[1] https://jamanetwork.com/journals/jamapsychiatry/article-abstract/2749479
[2] https://familyproject.sfsu.edu/conversion-therapy-begins-at-home

September 18, 2019

Testimony of James B. Fishman, Fishmanlaw, PC regarding Int. 85-A and Int. 1603 before the Committee on Civil and Human Rights

Chairman Eugene and members of the Committee:

My name is James Fishman. For the past 30 years I have represented NYC tenants and consumers as an attorney in private practice; Prior to that I served as an Assistant Attorney General in the Bureau of Consumer Fraud and Protection and then as a Staff Attorney at the Civil Division of the Legal Aid Society.

My private practice has consisted primarily of defending residential and commercial tenants from eviction in the Housing Court and in prosecuting individual and class actions in Federal Court against credit reporting agencies and debt collectors under the FCRA and the FDCPA.

For the past 15 years I have focused extensively on the problem of tenant blacklisting. Tenant blacklisting is a serious and pervasive problem affecting virtually all residential tenants, regardless of where they live. In a nutshell, blacklisting occurs when a prospective landlord rejects an application from a prospective tenant because the applicant was sued by a previous landlord in a housing court proceeding, anywhere in the country, regardless of what the case

was about and regardless of who prevailed in the case. Because blacklisting seriously impairs the ability of an individual to obtain residential housing it is an issue that must be fully understood so that it can be prevented if possible, or at least minimized.

Over the past 15 years my advocacy in this area has taken a variety of forms, including pursuing individual and class action suits against tenant screening bureaus for violation of the FCRA based on the inaccurate or incomplete reporting of Housing Court information about tenants; suing landlords in state supreme court to block them from initiating a housing court eviction proceeding that would result in blacklisting; even suing the Office of Court Administration and the Chief Judge to block that agency from facilitating the blacklisting process by selling electronic housing court information to tenant screening bureaus.

In my housing court advocacy I have endeavored wherever possible to convince landlord attorneys who were threatening to sue my client in an eviction proceeding to name them only as John or Jane Doe so as to keep their name out of housing court records.

As a result of these efforts over the past 15 years, tenants, landlords, landlord and tenant attorneys and housing court judges have become much more attuned to the problem of tenant blacklisting, its causes and effects.

Int-85-A represents a well-intentioned effort to solve this problem, however it has several significant flaws which should be recognized and addressed and it

must be emphasized that even if it is enacted, with or without these flaws, the problem of tenant blacklisting will not disappear, and in some instances, be made more problematic, for the following reasons:

1. The bill essentially creates an administrative violation against a landlord enforceable by the Human Rights Commission after a landlord denies an apartment simply because an applicant was a party to a housing court case. In the real world however, savvy landlords know that they can easily come up with some other pretextual reason to deny an apartment to avoid liability; and there are many non-illegal reasons a landlord is permitted to deny an apartment that hides the fact that it was based on a prior housing court case. Although landlords are required to provide a written "adverse action notice" if an apartment is denied in whole or in part based on a credit report (including a Tenant Screening Bureau report) many LL's either ignore that obligation or are unaware of it. Those landlords who are aware of this obligation provide an adverse action notice drafted for them by their TSB. Those notices do not identify any specific information in the credit report that caused the denial, specifically a prior housing court case, and instead refer the applicant to the TSB to obtain a copy of the report. However, by the time the applicant requests and obtains their TSB report the apartment has long been rented to someone else, making the whole process rather futile.

2. The law is not privately enforceable in the first instance. Without a private right of action tenants must rely on an already overburdened enforcement agency to provide redress. A landlord who receives a letter from a private attorney threatening suit for illegally denying the apartment based on a housing court record will be far more effective in overturning a denial with the ability to do this.
3. The private right of action must provide for actual, statutory and punitive damages and attorney's fees for violations for it to have any viability.
4. What the tenants really want and need however is not a lawsuit against a landlord. Instead, they want an apartment. This bill does not provide that solution. Instead, it forces tenants to repeatedly apply, get denied and then each time file a complaint with the HRC. Nothing in that process makes it more likely the tenant will obtain an apartment.
5. Unlike the newly enacted state law (RPL § 227-f) the bill does not contain a rebuttable presumption of illegal discrimination where the landlord obtained or viewed a tenant screening report or housing court records. This provision is critical because it tells landlords who employ TSB's that they will have a heavier burden in defending against a discrimination complaint if they do so. When fewer landlords employ TSB's the problem of tenant blacklisting dramatically dissipates.
6. Many brokers and landlords perform an initial, informal, oral screening by telling applicants don't even bother completing an application if you were

sued in a housing court case. The bill, as written, would not proscribe that conduct and it should be expanded not only take this practice into account but also to expressly include real estate brokers from its prohibitions.

7. The bill does nothing to protect NYC tenants sued in the NYC Housing Court when they seek to rent outside NYC or NYS. TSB's are national companies and housing court records are accessed by them on a national basis by landlords throughout the country.
8. Both the State RPL 227-f and this bill provide a false sense of security to tenants that blacklisting is no longer an issue. It is. Housing Court judges and landlord lawyers have, since the enactment of 227-f, downplayed the continued significance of blacklisting and the need for tenants to continue to wary of being sued in the housing court in their true name.
9. A far more comprehensive solution to tenant blacklisting is in Int. 1250, a bill I worked closely with Councilmember Kallos on which would require the licensing of all TSB's operating in NYC and strictly restrict the type of information about housing court cases they would be permitted to report to landlords.
10. In 2011 the Council passed the Tenant Fair Chance Act which required landlords and brokers to notify applicants in advance if they use a TSB and, if so, which one, so that they could obtain a copy of their report in advance of an application. That bill was also well intentioned but is

largely ignored and does not provide much assistance in restricting blacklisting.

Int. 1603

I've also represented a number of tenants who were denied housing through the Affordable Housing Lottery system solely because of a prior housing court case. A large percentage of persons eligible for the lottery have a prior housing court case in their history, whether deserved or not. The NYC Housing Court is the largest in the country with over 275,000 cases filed there each year. Housing court cases can appear on a credit report for up to 7 years. Given those numbers, the chances that a lottery applicant was previously sued by a landlord for falling behind in their rent is substantial.

The HPD policy manual sets strict guidelines on the use of housing court records by developers in the affordable housing lottery. In my experience however those guidelines are routinely ignored.

It is my understanding from litigating those cases in federal court against TSBs that developers have essentially outsourced their screening process to national tenant screening bureaus who create their own proprietary, and entirely opaque, credit scoring models which the developers do not even know about let alone participate in creating. By doing so these developers have completely ignored their obligations under HPD policies and regulations and have instead permitted these national TSB's to run their application process thereby eviscerating the affordable housing lottery process.

In a federal class action against CoreLogic Saferent, a national TSB, I filed in the Southern District of NY, the plaintiff was denied an apartment in the affordable housing lottery after the developer, Related Management, blindly relied on a screening report prepared by Corelogic which referenced a housing court case that had been filed several years earlier. That case involved the landlord's claim of non-payment and it was voluntarily discontinued by the landlord a week after it was filed because the landlord realized that the rent had in fact been paid. There was no judgment, no eviction and in fact the case was discontinued by the landlord. Yet, several years later, that housing court case appeared on a screening report prepared for Related by Corelogic and it was used to deny her the apartment.

Last December I conducted a deposition of a corporate representative of Related in that lawsuit and confirmed that the HPD Policies and Procedures for

Resident Selection and Occupancy were completely ignored and that it was Related's policy to in effect turn over their screening process to Corelogic. Major developers like Related, who receive significant financial benefits by participating in the affordable housing lottery must be strictly regulated in this regard. They must not be permitted to turn over their screening process to national tenant screening bureaus who have no interest in determining the nature and extent of any prior housing court history.

Like Int. 85-A, 1603 should be amended to include a private right of action so that persons victimized by the illegal conduct have the ability to directly enforce their rights in court and recover damages and attorneys fees.

James B. Fishman
Fishmanlaw, PC
305 Broadway Suite 900
New York, NY 10007
212 897 5840
Fishmanlaw.nyc
jfishman@fishmanlaw.nyc

Association for Neighborhood & Housing Development

ANHD
50 Broad Street, Suite 1402
New York, NY 10004
Tel: (212) 747-1117

TESTIMONY OF LUCY BLOCK BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON CIVIL AND HUMAN RIGHTS ON INT. 85-A REGARDING HOUSING ACCOMODATIONS AND TENANT BLACKLISTS

September 19, 2019

To Chair Eugene and members of the Committee on Civil and Human Rights,

My name is Lucy Block and I am the Research and Policy Associate at the Association for Neighborhood and Housing Development (ANHD). ANHD builds community power to win affordable housing and thriving, equitable neighborhoods for all New Yorkers. As a coalition of community groups across New York City, we use research, advocacy, and grassroots organizing to support our members in their work to build equity and justice in their neighborhoods and city-wide.

My testimony regards Intro 85-A. ANHD enthusiastically supports the elimination of tenant blacklists and ending discrimination against tenants for their involvement in housing court. While we applaud Council Member Kallos and the bill's sponsors for this important advancement of tenant rights, we have concerns that we feel are imperative for the Council to take into account.

Why we oppose the use of blacklists

The tenant blacklist is an illegitimate and exploitative mechanism that systematically disempowers tenants. Landlords take tenants to court frivolously and abusively as a tactic to harass and remove them from their homes.[1] This has overwhelmingly impacted people of color, who face many layers of barriers to housing stability. Research by geographer and analyst Abe Solberg showed that the Black population in a census tract was the best predictor of eviction filings.[2] After being targeted by a landlord and displaced via housing court, tenants on the blacklist face discrimination that adds additional obstacles to the already arduous search for decent and affordable housing.

The mere existence of the tenant blacklist also undermines all tenant protections, discouraging any tenant from using the legal system to assert their rights. Whether they've been involved in housing court proactively or defensively, the blacklist places a scarlet letter on tenants' written records and prevents them from securing stable housing.

Our concerns with Intro 85-A

As laid out above, we strongly believe New York City must take action to bar the use of tenant blacklists in the rental market. At the same time, we have several concerns with the proposed legislation:

1. The fines outlined in the bill are not nearly high enough to disincentivize use of the tenant blacklist. Starting at $100 per unit, the penalty falls easily into the category of the "cost of doing business." If listing an apartment with a monthly rent of $2,000, a landlord already loses more than $100 every two days they do not rent it out. We believe these penalties should be raised

[1] You can find the most egregious examples of landlords who harass tenants via housing court on the "NYC's Worst Evictors" website (https://www.worstevictorsnyc.org/evictors-list/)

[2] Abe Solberg, MA's independent analysis showed a 75% correlation between variables of Black population and eviction filings in Brooklyn and Staten Island census tracts. For more information, contact charles.solberg@mail.mcgill.ca.

Association for Neighborhood & Housing Development

ANHD
50 Broad Street, Suite 1402
New York, NY 10004
Tel: (212) 747-1117

significantly, so that the cost of using a blacklist is comparable to the rent a landlord would receive from that unit. We believe the initial penalty should be at least $1,000 per unit per month, and ideally on a schedule corresponding to unit size (e.g. beginning at $1,500 for a studio apartment and increasing by $500 per bedroom).

2. Savvy landlords can claim they are denying a tenant's application for reasons other than that tenant's involvement in housing court. For this reason, it would be more effective to prevent the creation and usage of blacklists themselves.

3. In a case where a landlord rejects a prospective tenant because of their history in housing court, that tenant must file a complaint with the Human Rights Commission. A tenant who has already been denied an apartment and has to seek another would need to spend additional time and energy to hold the landlord accountable. By the time any action is taken, the apartment will have long been rented to someone else, so the proposed law does not help that individual tenant obtain an apartment. Similarly to the above, an intervention in the creation of blacklists themselves would provide more benefit and protection to tenants seeking housing, rather than creating consequences for landlords.

We believe the additional enactment of Intro 1250-2016 would help address concerns two and three. Intro 1250-2016 requires licenses for tenant screening bureaus. That bill would have rigorous requirements for details of any court case included in a report, alleviating the issue of the gross oversimplification of housing court involvement. Because these standards are stringent and would require significantly more resources and effort for tenant screening bureaus to produce, it would interfere with the business model of tenant blacklists, which attempt to efficiently provide a method to landlords of filtering out "undesirable" tenants. If produced according to the law's requirements, it would likely need to be priced much higher, and fail to serve the same purpose.

We applaud Councilman Kallos, the bill's other sponsors, and this committee for your efforts to discourage the practice of using blacklists to bar tenants from housing. As we've pointed out, we think the effort must go farther to be truly effective.

You are welcome to contact me with any questions or for further clarification.

Respectfully,

Lucy Block
Research & Policy Associate
Association for Neighborhood and Housing Development
Lucy.B@anhd.org
(212) 747-1117 x13

TESTIMONY

Mathew Shurka
September 18, 2019

New York City Civil and Human Rights Commision

Good morning Civil and Human Rights Committee. My name is Mathew Shurka. I am a born and raised New Yorker, a constituent of Speaker Corey Johnson's district, a survivor of conversion therapy, and the Cofounder of Born Perfect. Born Perfect is a legal campaign to protect LGBTQ people from the discredited and harmful practice of conversion therapy. We are educating those who still believe being LGBTQ is an illness.

I have had the privilege to lead a movement that is unprecedented. Ending conversion therapy by legislative means and litigation only began a decade ago. No such laws or lawsuits have ever existed before. And I am proud to share the success of our work alongside the hundreds of elected officials who have sponsored and voted in favor of passing such legislation nationwide.

For the first time in my career I am testifying in favor of repealing one of those laws: the New York City conversion therapy ordinance, Subchapter 19 of chapter 5 of title 20 of the administrative code of the City of New York.

Since 2012 our team has supported the passage of legislation in 18 States and 55 municipalities. At every step, we have tried to be as strategic as possible because the stakes of this issue are high. We know that conversion therapy is a life-threatening practice. And we know that those who endorse and promote it---including anti-LGBT hate groups—will fight hard to oppose us as part of their campaign to stigmatize LGBT people and portray us as deviant and mentally ill. Not surprisingly, we have faced legal challenges to the laws from these groups and from conversion therapists who want to continue to prey on our community by falsely claiming they can change a person's sexual orientation or gender identity. So far, all of those legal challenges have failed, and these life-saving laws have been upheld—in California, New Jersey, Illinois, and Florida.

Now New York; I began advocating for a New York statewide law in 2013. The first introduction of such a bill was in 2014, by Assemblywoman Glick and State Senator Brad Hoylman. But then the legislative process stalled. For several years, our statewide bill was blocked and could not receive a vote on the Senate floor in Albany.

In 2017, we began to advocate for a New York City law with Council member Dromm. Since New York City does not have the legal power to regulate licensed mental health professionals, the law that was introduced and passed was on the basis of consumer fraud in the consumer affairs department--which we believed was the best course of action at that time and was the only such law in the nation.

Since the 2017 New York City law passed, a new understanding for how to protect LGBTQ people from conversion therapy has emerged. We have learned that LGBTQ victims of conversion therapy fraud can sue their therapists under existing consumer fraud laws in every state. In the lawsuits Michael Ferguson v. Jonah, and Kate McCobb v. Wiley, victims of conversion therapy in New Jersey and California sued their respective conversion therapists and won on the basis of consumer fraud.

Now, here we are in 2019.

In January, the New York legislature passed a statewide law protecting LGBTQ minors from being subjected to conversion therapy by licensed professionals. This was a long-awaited success for our New York youth. It was soon after that I and other state and national organizations began discussions with Speaker Corey Johnson about repealing the New York City law.

We saw the law being challenged by an anti-LGBT group in Schwartz v. City of New York, and we know firsthand how much time and resources such litigation can take. Based on the successful consumer fraud lawsuits noted above, we also understood that the New York City law is redundant of existing consumer fraud protections under state and local law, so that repealing it will not reduce any existing protections. We understood that while the New York City law is valid and should be upheld, there is always a risk of loss in any litigation, and that such a loss might well be seen as undermining laws in other states.

For all of these reasons, we strongly support repeal as the most responsible and protective decision—the one that will best protect LGBTQ people, both in New York and other states, and that will best support the nationwide campaign to end conversion therapy.

I am grateful to Speaker Corey Johnson for his leadership and support, I am grateful to Councilmember Dromm for his leadership and tireless work to support our community when he first introduced this law in 2017, and I am proud of the very city I call home.

Mathew

Mathew Shurka | Co-Founder & Chief Strategist

BornPerfect
Ending Conversion Therapy
+1 (516) 287-7072
mathew@bornperfect.com

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1682 2019 Res. No. _____

☒ in favor ☐ in opposition

Date: 9/18/19

(PLEASE PRINT)

Name: Cathren Cohen

Address: 301 E. 21st Street, Apt 6E, 10010

I represent: Lambda Legal

Address: 120 Wall Street

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: DANA SUSSMAN - Deputy Commissioner Intergovernmental Affairs and Policy

Address: _____

I represent: NYC Human Rights

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Eric Lesh

Address: 601 W 26th St NY NY 10001

I represent: LGBT Bar Assoc. of NY

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 9/18/19

(PLEASE PRINT)

Name: Margaret Brown

Address: _____

I represent: HPD

Address: 100 Gold

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 85/1603 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Robert Desir

Address: _____

I represent: Legal Aid Society

Address: 199 Water St NY NY 10038

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 85 Res. No. _____

☒ in favor ☐ in opposition

Date: 9/18/19

(PLEASE PRINT)

Name: Lucy Block

Address: 50 Broad St #1402

I represent: ANHD

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 9/18/19

(PLEASE PRINT)

Name: Mathew Shurka

Address: 61 W 10th Street NY, NY

I represent: Born Perfect / JCH

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 85/1603 Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/19

(PLEASE PRINT)

Name: Annabel Garfunkel Shurka

Address: 61 W 10th Street NY, NY

I represent: Neighbors Together / JCH

Address: 2094 Fulton St. Brooklyn NY 11216

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 85/1603 Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/19

(PLEASE PRINT)

Name: Nailah Abdul Mubdi

Address: _____

I represent: Neighbors Together

Address: 2094 Fulton St. BK NY 11233

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 85-A Res. No. _____

☐ in favor ☐ in opposition

Date: 9/18/19

(PLEASE PRINT)

Name: JAMES B. FISHMAN

Address: 305 BROADWAY STE 900 NYC

I represent: FISHMAN LAW PC

Address: 305 BROADWAY STE 900 NYC

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